

Mutual Legal Assistance

Paper presented by the Government of Zimbabwe

1. The Scheme for Mutual Legal Assistance in Criminal Matters and the Rendition of Fugitive Offenders

Significant use has been made of the legislation emanating from this scheme but we feel that an even more determined enforcement of the laws would benefit not only us in Zimbabwe but also our neighbours in the sub-region. We say this because we have witnessed a marked increase in transnational crime involving drugs, car thefts and the laundering of the proceeds of these crimes. Significant amounts of money have become available and this has spawned corruption. Enforcement agencies are being targeted by the crime rings and it is becoming increasingly difficult to break the rings and to bring the criminals to book.

We in Zimbabwe lament the lack of a co-ordinated approach within the subregion in the transfer of evidence, intelligence and all other useful data relating to the activities of the criminal rings. We would very much like to see a co-ordinated implementation of the arrangements for the provision and exchange of intelligence and the extradition of offenders. Because of the large amounts of money involved, inevitably the crime has become more sophisticated and we cannot continue to rely on the informal approaches which have hitherto characterised our dealings within the region.

The supply of and demand for illicit drugs is growing steadily; so also are other types of serious crime and concomitantly, the laundering of proceeds of crime. We in Zimbabwe feel that closer collaboration, particularly with our neighbours in the subregion, should lead to improved enforcement of the law. There is need for the creation between law enforcement agencies, through clearly designated channels of communication, of a spirit of mutual co-operation and confidence in order to effectively combat these forms of criminal activity.

2. Implementation of the Scheme for the Transfer of Convicted Offenders

Zimbabwe has long notified the Commonwealth Secretary-General of the enactment of legislation for the implementation of the Scheme for the Transfer of Convicted Offenders.

In the last 18 months or so, Zimbabwe has received 14 applications from foreign prisoners in our prisons requesting transfer to prisons in countries of their nationality. These have been from nationals of Botswana,

India, Malawi, Nigeria, UK and Zambia. We in Zimbabwe are very eager to transfer any prisoner who so wishes back to their countries and in each one of the applications we have received, I have agreed that the prisoners be transferred.

Unfortunately, our Commonwealth colleagues have not been very forthcoming when the applications were referred to them, in indicating whether or not they are willing to take transfer of their nationals.

In one case, an application for the transfer of a prisoner who is serving a life sentence for murder was initiated by the High Commission of the prisoner concerned. They identified the prisoner as their national and asked whether proceedings could be commenced. I was agreeable to have the prisoner transferred and the documents we normally transmit to the other government were sent to the relevant authorities. The documents included the identification documents of the prisoner, papers relating to his charge and a copy of the judgment. We were however bewildered to receive a letter from those authorities asking for such details as the height of the prisoner, his ethnic appearance, address into which he was seeking transfer, passport number and evidence that he was a citizen of that country; certified copies of the legislation on which the conviction was based, confirmation that no appeal was pending, etc. Even after supplying this information which we felt was uncalled for considering the documents we had already made available and also that the initiative in the matter had come from the authorities of his country, it does not appear that we are going to see the the expeditious conclusion of this matter.

All this is mentioned mainly to draw attention to our disappointment, firstly in the poor response by countries to introduce legislation for the implementation of this scheme and secondly, even where legislation is in place, the reluctance to co-operate meaningfully in its implementation.

We have now gone a step further and sent a circular to our High Commissions all over the world drawing attention to the existence of our legislation and the procedures to be followed. We are very anxious to transfer as many prisoners out of our prisons as possible.

We do hope that this forum will take note of the lack of progress on the part of their respective jurisdictions and urge that the situation be redressed.