

Immigration and Refugee Board of Canada

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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

23 November 2017

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Nigeria: Requirement for lawyers to affix stamps on legal documents; validity of documents issued without stamps (2015-November 2017)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Requirement for Lawyers to Affix Stamps on Legal Documents

The website of the Nigerian Bar Association (NBA) indicates that, since 1 April 2015, lawyers are required to affix their stamps on legal documents they prepare or endorse, in accordance with Rule 10 of the *Nigerian Rules of Professional Conduct for Legal Practitioners 2007* (NBA n.d.). Sources note that the Chief Justice of Nigeria issued a circular on 12 May 2015 giving directives for the implementation of the NBA stamps and seals policy (S.P.A. Ajibade & Co. Jan. 2016, 5; Yisapati n.d.). The same sources quote the circular as stating that "all Heads of Federal and State Courts shall establish procedures for the implementation of the [s]tamp [p]olicy and its full utilization within all jurisdiction[s]" (S.P.A. Ajibade & Co. Jan. 2016, 5-6; Yisapati n.d.), effective 1 June 2015 (S.P.A. Ajibade & Co. Jan. 2016, 5). [1]

Rule 10 of the *Rules of Professional Conduct* provides the following:

Seal and Stamp.

10.

1. A lawyer acting in his capacity as a legal practitioner, legal office or adviser of any Governmental department or Ministry of any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association.
2. For the purpose of this rule, "Legal documents" shall include pleadings, affidavits, depositions, applications, instruments, agreements, deed letters, memoranda, report[s], legal opinions or any similar documents.
3. If without complying with the requirements of this rule, a lawyer signs or files any legal documents as defined in sub-rule (2) of this rule, and in any of the capacities mentioned in sub-rule (1), the document so signed or filed shall be deemed not to have been properly signed or filed. (NBA 2007)

An article published in June 2016 in *This Day*, a Nigerian newspaper, and written by a partner of a law firm in Yenagoa, explains that not every lawyer "is competent to affix the stamp/seal" (*This Day* 28 June 2016). According to the same source,

lawyers, in salaried employment other than lawyers employed as legal officers in a [g]overnment department, as well as lawyers in default of payment of annual practi[c]ing fees who are not entitled to act in the capacity of legal practitioners, legal officers or advisers cannot affix the stamp/seal on legal documents. ...

Furthermore, the requirement for affixing the stamp/seal only becomes imperative when the lawyer is acting in his capacity as a legal practitioner. (*This Day* 28 June 2016)

Section 24 of the Nigerian 1975 *Legal Practitioners Act*, amended in 2004, provides that "'legal practitioner' means a person entitled in accordance with the provision of this Act to practise as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings" (Nigeria 1975).

According to an article published in August 2015 in Bar Alpha, an online platform for law undergraduates, students and young lawyers (Bar Alpha n.d.), all Nigerian legal practitioners must comply with the directives of the NBA (Bar Alpha 16 Aug. 2015). Similarly, according to an April 2016 article published in *This Day* and written by a senior associate of a law firm based in Port Harcourt, the *Legal Practitioners Act* regulates the practice of law in Nigeria and holds that

the qualification to practice law as a legal practitioner ... includes being called to the Bar and enrolled at the Supreme Court of Nigeria as a legal practitioner. It is that qualification that forms the basis of a legal practitioner signing legal documents i.e. that the legal practitioner has the authority to do so by virtue of his being enrolled as a member of the Nigerian Bar. (*This Day* 26 Apr. 2016)

Sources indicate that the purpose of the requirements to affix stamp and seal to legal documents in Nigeria is to prevent the practice of law by someone who is not authorised to do so (*This Day* 28 Jun. 2016; *This Day* 26 Apr. 2016).

Sources indicate that, in *Ogbere V. Orutala*, a 2016 case, the Enugu High Court held that it is sufficient that the stamp belong to any legal practitioner listed among the legal practitioners that represent the party (*This Day* 28 June 2016; Oshisanya 2017, 702).

The NBA's website provides samples of stamps for "public practice (red stamp)" and for "private practice (green stamp)" (NBA n.d.). The samples are attached to this Response.

2. Validity of Documents Issued Without Stamps

A document prepared by S.P.A. Ajibade & Co., a corporate and commercial law firm established in 1967 and based in Nigeria (S.P.A. Ajibade & Co. n.d.), states that, in 2015, the Nigerian Supreme Court held in *Mega Progressive People's Party v. Independent National Electoral Commission* (SC/655/2015) that

"[s]ection 10 of the Legal Practitioners Rules of Professional Conduct relied upon by Dr. Ayeni is directory and NOT mandatory in nature. Failure to affix the Nigerian Bar Association stamp cannot, in my view, invalidate processes filed in a Court of Law." (S.P.A. Ajibade & Co. Jan. 2016, 2, emphasis in original)

According to sources, in 2015, the Nigerian Supreme Court held in *Senator Bello Sarkin Yaki v. Senator Atiku Bubakar Bagudu* (SC/722/2015) that a document that does not bear the NBA stamp and seal "'is deemed not to have been properly signed or filed but not incompetent'" and that the "'process filed in breach of Rule 10(1) can be saved and its signing and filing regularized by affixing the approved seal and stamp on it'" (S.P.A. Ajibade & Co. Jan. 2016, 2-3; Yisapati n.d.). The April 2016 article by *This Day* further explains that the Supreme Court held in the Yaki's case that

failure to affix the Nigerian Bar Association stamp and/or seal cannot invalidate processes filed in court or legal documents, it only makes the document voidable. That is to say that such documents are deemed not to have been properly signed and not that they are invalid. (*This Day* 26 Apr. 2016)

A judgment held in the 2016 *Nyesom V. Peterside* case presented to the Nigerian Supreme Court refers to SC/722/2015 and states that

[w]ith regard to the lack of NBA stamp and seal on the petition, I refer to the recent decision of this Court in: Gen. Bello Sarkin Yarki v. Senator Abubakar Atiku Bagudu in SC.722/2015 delivered on 13/11/2015 when this Court held that the failure to affix the approved seal and stamp of the NBA on a process does not render the process null and void. It is an irregularity that can be cured by an application for extension of time and a deeming order. (Nigeria 12 Feb. 2016)

3. Issuance of Stamps

The NBA's website indicates that, in order to apply for stamps, lawyers must provide the following:

- A photocopy of Call to Bar Certificate ([i]f not yet verified)
- Means of identification ([i]nternational [p]assport, [d]river's license, or [n]ational [i]dentity [c]ard - if not yet verified)
- Proof of payment of Bar Practice Fees for the current year
- Proof of payment of branch dues
- Evidence of change of [n]ame (if [a]ny)
- Proof of non-refundable [a]dministrative fee of [2,000 Nigerian nairas (NGN)] [approximately C\$7] (if not yet verified)
- Proof of payment for number of [s]tamps needed. (NBA n.d.)

An article published by a legal practitioner based in Lagos in June 2017 in *This Day* notes that the NBA stamps and seals expire every March, as is indicated on the seal (*This Day* 6 June 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that the NBA stamps were not available to some lawyers after they had made their applications (S.P.A. Ajibade & Co. Jan. 2016, 5; *This Day* 6 June 2017). The June 2017 *This Day* article explains that legal practitioners who applied and paid for stamps had, in some cases, to wait for months before receiving them, to the point that Chief Richard Akinjide, the chairman of the Body of Senior Advocates of Nigeria, an organization that "provides for the identification of the very best advocates rigorously and objectively and in order to promote fairness, excellence and inclusiveness" (Senior Advocates of Nigeria n.d.), signed a letter in July 2015 addressed to the NBA requesting that the NBA "temporarily suspend the implementation of the stamp programme due to the non-availability of the stamps and seals to legal practitioners" (*This Day* 6 June 2017). According to the same source, while the NBA stated that all problems would be taken care of, as of June 2017, lawyers still needed to wait more than three months for stamps and seals (*This Day* 6 June 2017). The same source states that the Secretary of the NBA, Isiaka Olagunju, apologized in April 2017 for the delay legal practitioners experienced in getting their stamps and seals (*This Day* 6 June 2017).

The document prepared by S.P.A. Ajibade & Co. indicates that some Nigerian legal practitioners were issued stamps by the NBA that contained inaccurate information, and that some legal practitioners were issued two sets of stamps and seals, from the NBA's state and federal chapters, "with conflicting identification numbers and irregularity and non-consecutively numbered seals" (S.P.A. Ajibade & Co. Jan. 2016, 5). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] Sources indicate that, since October 2015, the Federal High Court of Nigeria in Lagos has not accepted the filing of processes that lack the seal and stamp (S.P.A. Ajibade & Co. Jan. 2016, 6; Yisapati n.d.). According to the S.P.A. Ajibade & Co. document, the Lagos State High Courts have not implemented the Chief of Justice of Nigeria's policy on stamps and seals and accept the filing of processes that lack the NBA stamps and seals at both the Lagos and Ikeja Divisions (S.P.A. Ajibade & Co. Jan. 2016, 6). The same sources specifies that the National Industrial Court is not accepting documents without the NBA stamps and seals, while the Investment and Securities Tribunal is (S.P.A. Ajibade & Co. Jan. 2016, 6).

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Yisapati, J.N. N.d. ["'Incompetence' of Court Processes Without the NBA Stamp/Seal."](#) The Legalnaija Blawg. [Accessed 16 Nov. 2017]

Additional Sources Consulted

Oral sources: Solicitor and Advocate of a law firm in Abuja.

Internet sites, including: ecoi.net; Factiva; The Law Society; UN – Refworld; US – Library of Congress.

Attachment

Nigerian Bar Association (NBA). N.d. ["NBA Stamp Request."](#) [Accessed 9 Nov. 2017]

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