



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE,  
GENDER MATTERS AND GOVERNANCE**

**ON THE**

**EXTRADITION (AMENDMENT) BILL, N.A.B. NO. 16 OF 2020**

**FOR THE**

**FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

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# **REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE, GENDER MATTERS AND GOVERNANCE ON THE EXTRADITION (AMENDMENT) BILL, N.A.B. NO. 16 OF 2020 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

## **1.0 MEMBERSHIP OF THE COMMITTEE**

The Committee consisted of Mr M Jere, MP (Chairperson); Mrs P G M Jere, MP (Vice Chairperson); Mr C Nanjuwa, MP; Evg H Shabula, MP; Mr E Sing'ombe, MP; Mr R Bulaya, MP; Ms M P Langa, MP; Mr S Banda, MP; Mr S Chungu, MP and Mr M F Fube, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA**

Sir,

The Committee has the honour to present its Report on the Extradition (Amendment) Bill, N.A.B. No. 16 of 2020 for the Fifth Session of the Twelfth National Assembly referred to it by the House on 20<sup>th</sup> October, 2020.

## **2.0 FUNCTIONS OF THE COMMITTEE**

The functions of the Committee are as set out under Standing Order 157(2). Among other functions, the Committee is mandated to consider Bills that may be referred to it by the House.

## **3.0 MEETINGS OF THE COMMITTEE**

The Committee held seven meetings to consider the Extradition (Amendment) Bill, N.A.B. No. 16 of 2020.

## **4.0 PROCEDURE ADOPTED BY THE COMMITTEE**

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from the stakeholders listed at Appendix II.

## **5.0 OBJECT OF THE BILL**

The object of the Bill is to amend the *Extradition Act, Chapter 94 of the Laws of Zambia* so as to provide for measures for monitoring of a request made to a competent authority.

## **6.0 BACKGROUND**

Global efforts to combat money laundering had led to the formation of the Financial Action Task Force (FATF). As a member of FATF, through her membership to the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), Zambia was assessed in 2018/2019 on her anti-money laundering and counter-terrorist and proliferation financing (AML/CFT) system.

Following this assessment, a Mutual Evaluation Report (MER) of June, 2019, under recommendation 39, observed, *inter alia*, that there was no information on the implementation and efficiency of extradition requests, a record of how many extradition requests had been handled or how many of those involved Zambian nationals. Further, it was observed that there was no information on the ability of the Zambian authorities to effectively handle extradition requests promptly.

In view of the foregoing, the Government introduced the Extradition (Amendment) Bill, N.A.B No. 16 of 2020 (hereinafter referred to as the Bill) to amend the *Extradition Act, Chapter 94 of the Laws of Zambia* (hereinafter referred to as the “principal Act”) to provide for monitoring the execution of a request made to a competent authority. The amendment was aimed at facilitating compliance with the FATF recommendations on anti-money laundering, financing of terrorism, proliferation or any other serious offences.

## **7.0 SALIENT PROVISIONS OF THE BILL**

The salient features of the Bill are set out below.

### **7.1 Clause 1: Short title**

Clause 1 provided for the short title of the Act and that the Act was to be read as one with the principal Act.

### **7.2 Clause 2: Amendment of section 6**

Clause 2 sought to amend section 6 of the Principal Act by including a subsection which authorised the Attorney-General to prescribe, by statutory instrument, measures for monitoring the execution of a request made under this section.

## **8.0 STAKEHOLDERS’ SUBMISSIONS AND CONCERNS**

While supporting the Bill, stakeholders raised concerns set out hereunder.

### **8.1 Clause 1: Short title**

Stakeholders were concerned that Clause 1 did not provide for a commencement date for the Bill, meaning that it would come into force immediately it was published in the *Gazette*.

### **8.2 Clause 2: Amendment of section 6**

Stakeholders welcomed clause 2 of the Bill which sought to amend section 6 of the principal Act, so as to provide for measures for monitoring a request for extradition by a foreign state made under section 6. Stakeholders were of the view that section 6 of the principal Act had a lacuna or gap which had necessitated the proposed amendment. They submitted that the amendment to section 6 of the principal Act to confer powers on the Attorney-General to issue a statutory instrument in respect of measures to monitor the execution of extradition requests made by the Republic of Zambia or foreign state created a framework for clarity on monitoring of extradition requests.

Some stakeholders were of the view that conferring powers to issue a statutory instrument on the Attorney-General, as chief Government legal advisor, amounted to meaningful devolution of power which would speed up service delivery. They added that the monitoring of the measures would help end-users of the Act to appreciate the challenges involved in extradition matters, and how to overcome them in order to enhance the prevention and combating of money laundering, financing of terrorism, proliferation or any other serious offences. The amendment was, therefore, necessary as it was a “gap filler”.

Some stakeholders, however, observed that although the amendment, if enacted, would empower the Attorney-General to prescribe, by statutory instrument, the measures for monitoring the execution of a request by a foreign state, it was important to do this after receiving recommendations, within a stipulated timeframe, from the Zambia Police Service, the Anti-Corruption Commission (ACC), the Drug Enforcement Commission (DEC) and the National Prosecutions Authority (NPA) since extradition dealt with criminal matters. This was because law enforcement agencies were well-versed in determining and handling credibility evidence.

Stakeholders were of the view that a timeframe for receiving these recommendations should be stipulated as without it, the whole exercise would be futile.

## **9.0 COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS**

The Committee notes that all the witnesses who appeared before it were in support of the Bill. The Committee also supports the Bill. In supporting the Bill, the Committee makes the following observations and recommendations:

- (i) The Committee observes that the proposed amendment in section 6 of the principal Act will confer statutory authority on the Attorney-General to prescribe, by statutory instrument, the measures for monitoring the execution of an extradition request by a foreign state. The Committee is of the view that since extradition deals with criminal matters, it is necessary that these measures are developed after receiving recommendations, within a stipulated timeframe, from the Zambia Police Service, ACC, DEC and NPA as these are the institutions that are well-versed in determining and handling credibility evidence.

In view of the foregoing, the Committee strongly urges the Government to ensure that measures for monitoring the execution of an extradition request are developed after receiving recommendations, within a stipulated timeframe, from the law enforcement agencies.

- (ii) The Committee observes that Zambia acceded to the United Nations Convention against Transnational Organised Crime in 2005; several years after the enactment of the *Extradition Act, Chapter 94 of the Laws of Zambia*. In this regard, the Committee recommends a holistic review of the Act in order to fully domesticate the UN Convention against Transnational Organised Crime so as to answer a global challenge with a global response.

## **10.0 CONCLUSION**

The Committee wishes to express its gratitude to all stakeholders who appeared before it and rendered both oral and written submissions. The Committee also wishes to thank you, Mr Speaker, for according it an opportunity to scrutinise the Bill. The Committee further appreciates the services rendered to it by the Office of the Clerk of the National Assembly and the permanent witnesses from the Ministry of Justice.

We have the Honour to be, Sir, the Committee on Legal Affairs, Human Rights, National Guidance, Gender Matters and Governance mandated to consider the Extradition (Amendment) Bill, N.A.B. No. 16 of 2020 for the Fifth Session of the Twelfth National Assembly,

Mr M Jere, MP  
(Chairperson)

Mrs P G M Jere, MP  
(Vice – Chairperson)

Mr C Nanjuwa, MP  
(Member)

Evg H Shabula, MP  
(Member)

Mr E Sing’ombe, MP  
(Member)

Mr R Bulaya, MP  
(Member)

Mr S Banda, MP  
(Member)

Ms M P Langa, MP  
(Member)

Mr S Chungu  
(Member)

Mr M F Fube  
(Member)

November, 2020  
**LUSAKA**

## **APPENDIX I - NATIONAL ASSEMBLY OFFICIALS**

Ms C Musonda, Principal Clerk of Committees  
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)  
Mrs C K Mumba, Senior Committee Clerk (FC)  
Ms B P Zulu, Committee Clerk  
Mrs R N Mwiinga, Typist  
Mr M Kantumoya, Parliamentary Messenger



## **APPENDIX II–LIST OF WITNESSES**

### **MINISTRY OF JUSTICE**

Hon G Lubinda – Minister of Justice  
Ms C Kaisala – Senior Parliamentary Counsel

### **UNIVERSITY OF ZAMBIA**

Prof C Himoonga – Dean, School of Law  
Dr M Lwatula – Assistant Dean (Undergraduate)

### **HUMAN RIGHTS COMMISSION**

Mr K Banda – Chief Investigations and Legal Services

### **LAW ASSOCIATION OF ZAMBIA**

Mr S Chisenga – Member

### **NATIONAL PROSECUTION AUTHORITY**

G Zimba – Deputy Chief State Advocate, Taxation and Financial Crimes

### **ANTI-CORRUPTION COMMISSION**

Mr S Muchula – Acting Director, Legal and Prosecutions  
Ms G Chisambisha – Senior Legal and Prosecutions Officer

### **ZAMBIA CORRECTIONAL SERVICES**

Dr C Chileshe – Commissioner General

### **ZAMBIA POLICE SERVICE**

Mr B Kapeso – Deputy Inspector General of Police  
Mr E S Sindandumuna (Assistant Commissioner) – Assistant Director, Legal  
Mr G Msoni (Inspector) – Legal Officer and State Advocate  
Mr W Mbula (Inspector) – Legal Officer

### **JUDICIARY**

Mrs D Malama – Registrar, Constitutional Court  
Mrs T Musonda – Registrar, Subordinate Courts