
STATUTORY INSTRUMENTS

1996 No. 716

The United Nations (International Tribunal) (Former Yugoslavia) Order 1996

PART III

OTHER FORMS OF ASSISTANCE TO THE INTERNATIONAL TRIBUNAL

United Kingdom evidence for International Tribunal use

18.—(1) This article applies where the Secretary of State receives from the International Tribunal a request for assistance in obtaining evidence in the United Kingdom in connection with proceedings that have been instituted before the International Tribunal or an investigation that is being carried on by it.

(2) If the Secretary of State or, if the evidence is to be obtained in Scotland, the Lord Advocate is satisfied—

- (a) that an International Tribunal crime has been committed or that there are reasonable grounds for suspecting that such a crime has been committed, and
- (b) that proceedings in respect of that crime have been instituted before the International Tribunal or that an investigation is being carried on by it,

he may, if he thinks fit, by notice in writing nominate a court in England, Wales or Northern Ireland or, as the case may be, Scotland to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request.

(3) In this article “evidence” includes documents and other articles.

(4) For the purpose of proceedings before a nominated court—

- (a) paragraphs 1 to 3, 6 and 7 of Schedule 1 to the Criminal Justice (International Co-operation) Act 1990(1) shall have effect, and
- (b) paragraph 4 of that Schedule shall have effect as if—
 - (i) sub-paragraph (3) of that paragraph and any reference to it were omitted, and
 - (ii) for any reference to criminal proceedings in the country from which the request for the evidence has come there were substituted a reference to proceedings before the International Tribunal.

(5) In proceedings before a nominated court the court may, if it thinks it necessary in the interests of justice, direct that the public be excluded from the court.

(6) A nominated court shall ensure that a register is kept of the proceedings which indicates in particular—

- (a) which persons with an interest in the proceedings were present,
- (b) which of those persons were represented and by whom, and

(c) whether any of those persons were denied the opportunity of cross-examining a witness as to any part of his testimony,

but save as authorised by the Secretary of State, or in Scotland the Lord Advocate, or with the leave of the court, the register shall not be open to inspection.

(7) The evidence received by the nominated court, together with a copy of the register of the proceedings, shall be furnished to the Secretary of State or, in Scotland, the Lord Advocate for transmission to the International Tribunal.

(8) If in order to comply with the request it is necessary for the evidence or deposition to be accompanied by any certificate, affidavit or other verifying document, the court shall also furnish for transmission such document of that nature as may be specified in the notice nominating the court.

(9) Where evidence consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.