

2001 No. 412

UNITED NATIONS

**The United Nations (International Tribunals) (Former
Yugoslavia and Rwanda) (Amendment) Order 2001**

Made - - - - - 14th February 2001

Laid before Parliament 26th February 2001

Coming into force - - 12th March 2001

At the Court at Buckingham Palace, the 14th day of February 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by resolutions adopted on 25th May 1993, 13th May 1998 and 30th November 2000, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to certain decisions of that Council in relation to the former Yugoslavia:

And whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by resolutions adopted on 8th November 1994, 30th April 1998 and 30th November 2000, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to certain decisions of that Council in relation to Rwanda:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and extent

1.—(1) This Order may be cited as the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Amendment) Order 2001 and shall come into force on 12th March 2001.

(2) This Order extends to the United Kingdom.

2. The Schedule to the United Nations (International Tribunal) (Former Yugoslavia) Order 1996(b) is amended by deleting Articles 12, 13 and 14 of the Statute of the International Tribunal and substituting therefor the provisions set out in Schedule 1 to this Order.

(a) 1946 c. 45.

(b) S.I. 1996/716, amended by S.I. 1997/1752, 1998/1755, 2000/1342 and S.I. 2000/3243.

3. The Schedule to the United Nations (International Tribunal) (Rwanda) Order 1996^(a) is amended by deleting Articles 11, 12 and 13 of the Statute of the International Tribunal and substituting therefor the provisions set out in Schedule 2 to this Order.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 1996/1296, amended by S.I. 1997/1751, 1998/1755, 2000/1342 and S.I. 2000/3243.

Article 12

Composition of the Chambers

1. The Chambers shall be composed of sixteen permanent independent judges, no two of whom may be nationals of the same State, and a maximum at any one time of nine ad litem independent judges appointed in accordance with article 13 ter, paragraph 2, of the Statute, no two of whom may be nationals of the same State.

2. Three permanent judges and a maximum at any one time of six ad litem judges shall be members of each Trial Chamber. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber shall have the same powers and responsibilities as a Trial Chamber under the Statute and shall render judgement in accordance with the same rules.

3. Seven of the permanent judges shall be members of the Appeals Chamber. The Appeals Chamber shall, for each appeal, be composed of five of its members.

Article 13

Qualifications of judges

The permanent and ad litem judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

Article 13 bis

Election of permanent judges

1. Fourteen of the permanent judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

- (a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;
- (b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 13 of the Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a judge of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "The International Tribunal for Rwanda") in accordance with article 12 of the Statute of that Tribunal;
- (c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-eight and not more than forty-two candidates, taking due account of the adequate representation of the principal legal systems of the world;
- (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect fourteen permanent judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

2. In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the general Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 13 of the Statute, for the remainder of the term of office concerned.

3. The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election.

Article 13 ter

Election and appointment of ad litem judges

1. The ad litem judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

- (a) The Secretary-General shall invite nominations for ad litem judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;
- (b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to four candidates meeting the qualifications set out in article 13 of the Statute, taking into account the importance of a fair representation of female and male candidates;
- (c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than fifty-four candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution;
- (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the twenty-seven ad litem judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected;
- (e) The ad litem judges shall be elected for a term of four years. They shall not be eligible for re-election.

2. During their term, ad litem judges will be appointed by the Secretary-General upon request of the President of the International Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years. When requesting the appointment of any particular ad litem judge, the President of the International Tribunal shall bear in mind the criteria set out in article 13 of the Statute regarding the composition of the Chambers and sections of the Trial Chambers, the considerations set out in paragraphs 1(b) and (c) above and the number of votes the ad litem judge received in the General Assembly.

Article 13 quater

Status of ad litem judges

1. During the period in which they are appointed to serve in the International Tribunal, ad litem judges shall:

- (a) Benefit from the same terms and conditions of service *mutatis mutandis* as the permanent judges of the International Tribunal;
- (b) Enjoy, subject to paragraph 2 below, the same powers as the permanent judges of the International Tribunal;
- (c) Enjoy the privileges and immunities, exemptions and facilities of a judge of the International Tribunal.

2. During the period in which they are appointed to serve in the International Tribunal, ad litem judges shall not:

- (a) Be eligible for election as, or to vote in the election of, the President of the Tribunal or the Presiding Judge of a Trial Chamber pursuant to article 14 of the Statute;
- (b) Have power:
 - (i) To adopt rules of procedure and evidence pursuant to article 15 of the Statute. They shall, however, be consulted before the adoption of those rules;
 - (ii) To review an indictment pursuant to article 19 of the Statute;
 - (iii) To consult with the President in relation to the assignment of judges pursuant to article 14 of the Statute or in relation to a pardon or commutation of sentence pursuant to article 28 of the Statute;

- (iv) To adjudicate in pre-trial proceedings.

Article 14

Officers and members of the Chambers

1. The permanent judges of the International Tribunal shall elect a President from amongst their number.
2. The President of the International Tribunal shall be a member of the Appeals Chamber and shall preside over its proceedings.
3. After consultation with the permanent judges of the International Tribunal, the President shall assign four of the permanent judges elected or appointed in accordance with Article 13 bis of the Statute to the Appeals Chamber and nine to the Trial Chambers.
4. Two of the judges elected or appointed in accordance with article 12 of the Statute of the International Tribunal for Rwanda shall be assigned by the President of that Tribunal, in consultation with the President of the International Tribunal, to be members of the Appeals Chamber and permanent judges of the International Tribunal.
5. After consultation with the permanent judges of the International Tribunal, the President shall assign such ad litem judges as may from time to time be appointed to serve in the International Tribunal to the Trial Chambers.
6. A judge shall serve only in the Chamber to which he or she was assigned.
7. The permanent judges of each Trial Chamber shall elect a Presiding Judge from amongst their number who shall oversee the work of the Trial Chamber as a whole.

SCHEDULE 2

Article 3

Article 11

Composition of the Chambers

The Chambers shall be composed of sixteen independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

- (a) Three judges shall serve in each of the Trial Chambers;
- (b) Seven judges shall be members of the Appeals Chamber. The Appeals Chamber shall, for each appeal, be composed of five of its members.

Article 12

Qualification and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.
2. Eleven of the judges of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:
 - (a) The Secretary-General shall invite nominations for judges from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;
 - (b) Within sixty days of the date of the invitation of the Secretary-General, each state may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (hereinafter referred to as “the International Tribunal for the Former Yugoslavia”) in accordance with article 13 bis of the Statute of that Tribunal;

- (c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;
- (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect eleven judges of the International Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

3. In the event of a vacancy in the Chambers amongst the judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

4. The judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election.

Article 13

Officers and members of the Chambers

- 1. The judges of the International Tribunal for Rwanda shall elect a President.
- 2. The President of the International Tribunal for Rwanda shall be a member of one of its Trial Chambers.
- 3. After consultation with the judges of the International Tribunal for Rwanda, the President shall assign two of the judges elected or appointed in accordance with Article 12 of the present Statute to be members of the Appeals Chamber of the International Tribunal for the Former Yugoslavia and eight to the Trial Chambers of the International Tribunal for Rwanda. A judge shall serve only in the Chamber to which he or she was assigned.
- 4. The members of the Appeals Chamber of the International Tribunal for the Former Yugoslavia shall also serve as the members of the Appeal Chamber of the International Tribunal for Rwanda.
- 5. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of that Trial Chamber as a whole.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, makes provision to implement a resolution of the Security Council of the United Nations which established a pool of ad litem judges in the International Tribunal for the Former Yugoslavia and increased the number of judges in the Appeals Chambers of the two International Tribunals.

The Order further amends the United Nations (International Tribunal) (Former Yugoslavia) Order 1996 to reflect the decision of the Security Council of the United Nations in Resolution 1329 (2000) to amend the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 established by Resolution 827 (1993) of the Security Council of the United Nations.

The Order also further amends the United Nations (International Tribunal) (Rwanda) (Order) 1996 to reflect the decision of the Security Council of the United Nations in Resolution 1329 (2000) to amend the Statute of the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring states, between 1st January 1994 and 31st December 1994, established by Resolution 955 (1994) of the Security Council of the United Nations.

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Yugoslavia and Rwanda) (Amendment) Order 2001**

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