

1. Voorn's letter asking for basis of release:

Attn. Mr R. de Groot

My Sirs,

Regarding: Extradition Request K.K. Ehigiene; your ref. UTL-1-2003000028

On December 18, 2002 Mr. K.K. Ehigiene, living in Amsterdam, was arrested in his house and taken into extradition detention, this happening despite the fact that he he has proven not to be the man that Germany says they are looking for. Eventually, the public prosecutor ended the detention in Amsterdam on July 29, 2003 with the bare message that the Germans have withdrawn their extradition request on July 28, 2003.

On behalf of K.K. Ehigiene I request you to inform me by return of what the legal basis is for the withdrawal of the request by the German authorities. Client has the right to know this.

In waiting, I sign,

Sincerely,
L.J.G. Voorn

2. Reply to Voorn's Letter:

Subject: Extradition Request K.K. Ehigiene

Dear Mr. Voorn,

In reply to your letter of September 24, 2003 on Kenneth Koseyem Ehigiene, born on February 9, 1968, I enclose a copy of the letter from the 'Senatsverwaltung für Justiz' of the German state Berlin in which the request to extradition is withdrawn, and a copy of the letter that preceded it in which further identity investigation was announced. In short, the German authorities withdrew the request because your client turned out not to be the person they were looking for. Any other legal basis than this is absent.

Sincerely,

The minister of Justice,
on their behalf,
Head of the Bureau international legal assistance in criminal matters

3. Letter from Justice admitting they made a mistake:

Dear Mr. Voorn,

In response to your letter of July 10, 2003 I inform you the following information.

In response to a legal request from the German authorities, four pictures of your client, K.K. Ehigiene, were made by a police photographer. Normally during police custody pictures are taken of the persons when taken into police custody. Since this was neglected during the time of taking into police custody the pictures in response to said request for legal assistance were taken as yet.

I hope to have informed you sufficiently.

Sincerely,

On behalf of the public prosecutor.

W.H. Dijkstra

Secretary International Law assistance

4. Letter to Balkenende:

Haarlem September 8, 2008

Attachment: copy of page 13 of the nrchandelblad 6 / 7 september

To the Prime Minister, the Minister of Justice, and Mr. Jan de Wit (sp), Mrs. A. Kuiken (pvda), Mrs. F. Joldersma (cda), Mr. F. Teeven (vvd), Mrs. L. Griffith (vvd).

In nrchandelblad of Saturday September 6 & Sunday September 7, page 13, I read the article about Kenneth Koseyem Ehigiene. Considering the fact that the Kingdom of the Netherlands want to come to terms with him, I am assuming the facts are correct.

Such reports come to my attention quite often, and to make a long story short, I'm letting you know that it wouldn't surprise me when on an evil day, one of the offended will initiate a 'counter attack' and for instance blow up sky high the queen, Prime Minister or justice minister, or whoever, be it along with vehicle/building, or will execute any other violent action. (the small work)

Just about everyone was very shocked with the happenings regarding the Twin Towers, I wasn't, not even surprised. I have always regarded that (repulsive) attack as a counterattack by a group against the great arrogance and violent acts of the West. (the grand work)

It is truly shocking to hear of such facts as these, the failing of the constitutional state. From the report in the paper I make out that many mistakes were made during the procedures, even up to the Supreme Court.

My respect for the Dutch constitutional state was already limited, and has certainly not increased with this new 'Spijker' case. My outrage about this case is so great that I want you to know about it via this avenue. I'm serious, I will truly not be surprised when such a thing as I depicted earlier actually happens. Let it be clear that I will not at all partake in such a violent act, nor will I incite anyone to.

I urge you at the soonest possible time to a full reparation and complete indemnification of Mr. Kenneth Koseyem Ehigiene.

Please, don't turn it into a long winding 'Spijker affair'!

A copy of this letter I send, via nrchandelblad to Mr. Kenneth Koseyem Ehigiene.

Matth van Rooden
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Tel023 - 5 320 324
matthvanrooden@planet.nl

5. Reaction from Balkenende:

Dear Mr. Van Rooden,

In your letter attached with an article from the NRC-Handelsblad you request my attention for the situation of Mr. Koseyem Ehigiene. Ik have taken carful note of your views on this subject. I would like to reply you as follows.

Firstly I firmly withhold myself of any opinion on matters that are or have been subject to judicial review. Judicial courts are independent in our constitutional system. To ensure that independence the decisions of these bodies may and can not be influenced by me. Therefore I do not want and can not comment on what is published in the NRC-Handelsblad regarding suspicions the police apparently have or have had against Mr. Koseyem Ehigiene.

Although I do understand if my response may not satisfy, I can give you no other answer.

Kind regards,

THE PRIME MINISTER,
Minister of General Affairs,
Mr.dr. J.P. Balkenende

6. Second Letter to Balkenende:

Excellency,

A short reply to your letter that was a reaction to my September 8 letter. First, I would like to tell you that I have no need in its entirety of an elaborate correspondence of what I call the: case Kenneth Koseyem Ehigiene. I understand that you can not get mixed in a case that is subject to the judgement of the court. The nature and content of my letter, as it were led to your comment, and I understand that.

What actually worries me most about is that a procedure wasn't followed in t his case, that is, the mandatory taking of a correct picture of the person involved. This has led to severe consequences for

Mr. Ehigiene. Partly due to that error an innocent person is treated like a terrorist. Who subsequently according to his own words has to spend 60.000 euro to prove his innocence, and then we have not even mentioned the other emotional and business damage caused as a result of this amateurism.

The Netherlands is said to be a constitutional state, the Netherlands is NOT a constitutional state, a constitutional state would, upon realizing that the suspect is innocent, immediately do everything possible to support the innocent person and restore him his good name and honour.

The case Ehigiene is unfortunately not an isolated case, that is particularly worrying. There is still a lot of work to do if The Netherlands wants to call itself a constitutional state, in my understanding of constitutional. I wish you and the Justice Minister a lot of success with that, but primarily a lot of wisdom.

Best regards from:

Matth van Rooden (m)
Bakenessergracht 96
2011 JZ Haarlem.

023 - 5 320 324
matthvanrooden@planet.nl

7. Machielse 1:

1. The Court of Law in Amsterdam has declared the extradition for the purpose of persecution of the person claimed to the Bondsrepublic of Germany as admissible.

2. Mr. L.J.G. Voorn, lawyer in Amsterdam, has brought cassation and mr. G. Spong, also a lawyer in Amsterdam, has sent a scriptural, containing one plea of appeal.

3.1. The plea concerns the complaint that the Court rejected without sufficient justification the defence which was submitted on behalf of the person claimed that there can be no suspicion of guilt, which is a violation of Art. 28 of the Extradition Act. According to the notes to the plea, the court, in particular, should have given an opinion about the plausibility of the defence that the person claimed has never been in Turkey, where the respective criminal acts took place, and the Court could not suffice with a rejection of the presumption of innocence in general.

3.2 The Court has summarized the defence referred to in the plea as follows:

“Counsel at the hearing, in essence, put forward the following.

a. The person claimed is innocent of the offences for which his extradition is requested. The person claimed has, according to the numerous productions that have been submitted at the hearing, undertaken various activities in the Netherlands and has never been in Turkey. The documents show that the person claimed, on dates that he would have participated in the transfer of narcotics in Turkey, attended various meetings in The Netherlands and undertook sportive activities. With this the person claimed has sufficiently proven his innocence (...)”

and rejected it for the following reasons:

“The Court considers this matter as follows:

Ad a. Article 28 second paragraph of the Extradition Act provides that extradition should be declared inadmissible if with respect to the person claimed there can be no suspicion of guilt of the offenses for which extradition is requested. This circumstance must be shown immediately by the person claimed. The facts and circumstances as alleged by the defence do not exclude that in respect of the person claimed a suspicion of guilt in relation to these facts exists. The suspicion involves various facts and covers a period of considerable duration without a very fixed time indication. The circumstances cited on behalf of the person claimed could possibly play a role in the treatments of the facts in Germany (...)”

3.3 In assessing the plea it must be put first that a claim of innocence can only be upheld if the court immediately, that is without thorough investigation which is similar to the criminal proceeding in question, comes to the conclusion that there can be no suspicion of guilt. The demand of the author of the plea stating that the court should have gone in more detail on the specific point that the person claimed has never been to Turkey finds no support in the law. The court used the correct criterion in its rejection of the innocence claim.

8. Machielse 2:

The plea fails.

3.4 Ex officio I bring up the question whether the rejection of the innocence claim is understandable given the material that counsel Mr. Voorn has submitted to the court. On April 8, 2000, as put forward by the lawyer supported by a personal hour-specification, the person claimed had spoken to Mr. Voorn concerning a labor dispute that the person claimed had with his employer. I assume Mr. Voorn did not confuse the person claimed with another person and that the person claimed was the one who was with Mr. Voorn at the office. The first fact for which the court declared the extradition admissible entails that the person claimed, would have given two couriers each an amount of heroin on April 8, 2002 in Antalya in Turkey, to bring to Italy. On this one fact I can't follow the reasoning of the Court, that the suspicion involves various facts and covers a considerable period of time without a fixed time indication. The main point of this fact is exactly a specific time and place related behaviour. For now I will remain in the opinion that one person in one day could not have a meeting in Amsterdam at his lawyer's office and then also be in Antalya in Turkey handing over kilo's of heroin. The question is whether the suspicion of the other two facts would not be entrained if the extradition for the first fact were to be declared inadmissible. The suspicion is based on photo identifications of the same people. Now that the photo identifications regarding fact 1 at first glance have produced a false suspicion in my view, this also goes for the other facts.

4. This conclusion is intended that the Supreme Court will annul the contested decision, determine a day on which the case may be served before the Supreme Court and summon the person claimed and an interpreter of the English language on that appointed day, along with a notification to the lawyer of the person claimed.

The Attorney General
Of the Supreme Court of the Netherlands.

9. Photos taken by Dutch police in prison:

I, Johannes Lodewijk Rijfkogel, inspector of Regional police of Amsterdam, officiating at the above department, declare the following:

On Thursday July 3, 2003 police photographer M. Missana took four pictures of Kennet Koseyem EHIGIENE, born on 09/02/1968.

The pictures were thereafter digitalized and are presented below:

The pictures have been sent by e-mail to the requesting authority, the police in Berlin, department GER3.

In this police report I add

1. 2 sets of original prints of the pictures taken.

Put on oath in Amsterdam, July 3, 2003

The inspector of police,
J.L. Rijfkogel

10. Fighting For Justice 1:

Court of Amsterdam, Fifth Chamber C

Official Record of the hearing that was held in public in the previously named court and chamber on March 18, 2003.

The chairperson shall proclaim the case against still to be mentioned person claimed.

The person claimed in this hearing is a person who has made clear not to understand the Dutch, but to understand the English language. In this respect, the investigation takes place with the assistance of a person who says to be: P.J. Kuiper, interpreter for the latter mentioned language. Before proceeding with the work as an interpreter, said person will take the pledge in the hands of the chairperson in the manner prescribed by law to fulfil the task of an interpreter with good conscience. The interpreter will interpret all that will be spoken or read during the hearing.

The person claimed will answer the questions of the chairperson that he is named:

EHIGIENE, Kenneth Koseyem,

born in Igbanke (Nigeria) on February 9, 1968

living at 1106 MC Amsterdam-Zuidoost, Wisseloord 122

detained in the Detention Center "Demersluis" in Amsterdam

As counsel for the person claimed present at the hearing Mr. L.J.G. Voorn, lawyer in Amsterdam. Also appeared, Mr. H. Schultz, lawyer in Germany.

The chairperson informs the person claimed that he is not obliged to answer and exhorts him to be attentive to what he will be hearing.

The court recommences the hearing of the January 22, 2003 suspended investigation, since it is currently being heard in a different formation.

The chairman reads out the synopsis of the documents, also including the claim of the prosecutor seeking the handling of the extradition request of the German authorities, the additional request wherein is asked for the objects seized from the person claimed and the application for the detention of the person claimed.

Have declared -in essence-:

Public prosecutor:

I hereby submit two written pieces to your court in relation to the identification of the person claimed. It is a "Vermerk" by Muche Kok of October 22, 2002 and a letter to the Parket in Amsterdam from Klein, Kriminal-oberkommissar.

The chairperson reads out the contents of the latter pieces.

The person claimed:

The personal details which you are presenting to me are correct. I hold the Dutch and the Nigerian nationality.

Mr. H. Schultz:

On behalf of Ehigiene I have filed a complaint against the Haftbefehl. NO decision has been made concerning that complaint. The prosecutor has expressed in writing his views on my

objection. The whole procedure is in contrary to a fair trial. The identification, as this has taken place, is contrary to every international procedure. There will be no oral hearing of the appeal. There does exist the possibility that the Landesgericht will hear witnesses or experts or that Staatsanwalt is requested to perform further investigation.

Counsel:

Counsel hands over his plea notes to the court, notes that will be attached to these minutes and are considered valid as inserted here.

Counsel refers to the 51 productions that he has forwarded before in the context of a waiver / suspension request to the court.

Public prosecutor:

These productions have been previously added to the file, but I haven't received a copy of these productions from the court. I therefore do not possess them now.

The chairman observes that the productions have indeed been added to the original file.

Public prosecutor:

Some of the defences put forward by counsel may be relevant in the treatment of the criminal case, but not in the context of the extradition proceedings. It is obvious that the German authorities want to see this person extradited. This court should not concern themselves with the evidence question. The innocence defence of the person claimed is not waterproof. I also see no reason to take a German internal procedure regarding the objection into account and I oppose putting the extradition request on hold pending the outcome of that procedure.

Regarding the by counsel alleged infringement of Article 6 of the ECHR regarding the absence of a translation of the documents, I would point to the settled case law that the requesting State is not obliged to supply a request in the Dutch language. In the present case, there are plenty opportunities for the person claimed to examine the documents.

Counsel:

From the pieces submitted it must be accepted that it has not become plausible that the person claimed was in Turkey in that period. Further information must follow that shows that he was there. The court will have to, if it follows this reasoning, put the processing of the extradition request on hold.

With regard to the question of the language in which the request must be translated or delivered, I would eventually want to hear the views of the Court in Strasbourg.

The person claimed:

I came to The Netherlands in 1990. I got married in the Netherlands and worked at Sony. I am no drug dealer. This entire nightmare started with my sister-in-law that recognized me in a picture, but I am not the person in the picture. Why can the original picture not be sent here so that the picture can be compared with real pictures of me?

Furthermore, varying descriptions have been given of the person involved. My brother, here on the stand, also fulfils those descriptions. I have scars on the left side of my face. None of the persons involved speaks of them. In my passport there are no visa stamps of Turkey during that period. I would have needed such visa stamps to be able to enter Turkey.

I have suffered too much. I have been innocently held in prison for three months now and all this because of a mistake of the German authorities. I want to go back to my family. They are all feeling for me.

Counsel requests suspension of the detention of his client, now that client has a permanent residence, his entire family lives here in the Netherlands and he has his own company.

The prosecutor persists in its claim regarding the extradition, detention and orally seeks the transfer of property to the German authorities.

The person claimed and counsel are given the right to speak last.

Having deliberated in chambers, the chairman announces as decision of the court that the detention of the requested person is being ordered and the request for suspension of detention is rejected now and there are no grounds for suspension.

A separate minute has been made of the order for detention.

The chairman closed the investigation and announced that the court will rule on April 1, 2003 at about 13:00.

Which has made this official record, confirmed and signed by the chairperson and the registrar.

11. Fighting For Justice 2:

Supreme Court of the Netherlands

Arrest

In the appeal in cassation against a judgment of the Court in Amsterdam on April 1, 2003, number RK 03/117, on a request from the Senatsverwaltung für Justiz of Berlin to extradite:

Kenneth Koseyem EHIGIENE, born in Igbanke (Nigeria) on February 9, 1968, living in Amsterdam-Zuidoost, at the time of service of the notice detained in the detention center "Demersluis" in Amsterdam.

1. The contested decision

The Court has declared the requested extradition of the person claimed by the Federal Republic of Germany for the prosecution of the offenses set out in the contested decision admissible. Furthermore, the Court has approved the request of the public prosecutor to make available to her the seized goods for transmission to the requesting German authorities.

2. Cassation procedures

The appeal was lodged by the person claimed. On his behalf, Mr. G. Spong, lawyer in Amsterdam, has proposed a plea of appeal in writing. The writing is attached to this judgment and forms part of it.

The Advocate-General Machielse has concluded that the Supreme Court will annul the contested decision, determine a day on which the case may be served before the Supreme Court and summon the person claimed and an interpreter of the English language on that appointed day, along with a notification to the lawyer of the person claimed.

3. Assessment of the contested decision in response to the plea and ex officio

3.1. The plea contains the complaint that the Court rejected the defence that there can be no suspicion of guilt without sufficient motivation.

3.2 The court, as far as is relevant now, has considered the following in the contested decision:

“Counsel at the hearing, in essence, put forward the following.

a. The person claimed is innocent of the offences for which his extradition is requested. The person claimed has, according to the numerous productions that have been submitted at the hearing, undertaken various activities in the Netherlands and has never been in Turkey. The documents show that the person claimed, on dates that he would have participated in the transfer of narcotics in Turkey, attended various meetings in The Netherlands and undertook sportive activities. With this the person claimed has sufficiently proven his innocence (...)”

The court considers this matter as follows:

Ad a. Article 28 second paragraph of the Extradition Act provides that extradition should be declared inadmissible if with respect to the person claimed there can be no suspicion of guilt of the offenses for which extradition is requested. This circumstance must be shown immediately by the person claimed. The facts and circumstances as alleged by the defence do not exclude that in respect of the person claimed a suspicion of guilt in relation to these facts exists. The suspicion involves various facts and covers a period of considerable duration without a very fixed time indication. The circumstances cited on behalf of the person claimed could possibly play a role in the treatments of the facts in Germany (...)”

3.3. The Haftbefehl of November 19, 2002 from the Amtsgericht Tiergarten that is present among the pieces, to which is referred in the extradition request on December 27, 2002, as far as is relevant now, entails the following:

“Am 8. April 2000 erschienen der Beschuldigte und “Martins” im Hotel und übergaben der gesondert verfolgten Bieber eine sogenannte Arzttasche, in der mindestens vier Kilogramm Heroin versteckt waren.”

3.4. Apparently the Court has assumed that the aforementioned fact also does not contain “a very fixed time indication”. Since no specific time has been mentioned, that judgment is not inconceivable. In light of the conducted defence as is made apparent in the documents of the proceedings that the Court possesses, which implies that the lawyer of the person claimed had an interview at his office in Amsterdam on April 8, 2000 with the person claimed, it could after all not be ruled out that the requested person on that date also was in Turkey.

3.5. For the rest also, the plea can not result in cassation. This, pursuant to section. 81 RO, needs no further explanation now that the plea to this extent does not require answers to legal questions in the interest of legal uniformity or development of the law.

4. Conclusion

Now that the plea can not lead to cassation, and the Supreme Court also sees no grounds on which the contested decision should be destroyed ex officio, the appeal must be dismissed.

5. Conclusion

The Supreme Court dismisses the appeal.

This judgment was given by the vice-president W.J.M. Davids as chairman, and the counsellors G.J.M. Corstens and B.C. de Savornin Lohman, in the presence of deputy registrar L.J.J. Okker-Braber, and pronounced on July 8, 2003.

12. Letter from Voorn about unlawful house search

Honourable Sir,

For this I ask your attention to the following:

Mr. K.K. Ehigiene, born on Feb. 9, 1968, is head tenant and occupant of the residence (1106 MC) Amsterdam, Wisseloord 122. He lives there with his family and his mother. He complains that the Police of the Remmerdenplein Precinct, Amsterdam Z.O.. Reigersbos, unlawfully entered his residence on Wednesday November 3, 2004 to search for illegal aliens, as was explained later (read: feigned).

Ehigiene was not present at that moment. Those present included his mother and a roommate. When there was a violent banging on the entrance door to the residence, the referred roommate opened the door to see who did this. The Police used this occasion to storm the residence (they had assembled many men) without showing a search warrant. This behaviour of the police is unlawful towards my client and his family.

The next day when client asked for a search warrant, the claim was made that it wasn't necessary to show a search warrant because they would have been allowed into the residence. This reasoning can not be accepted, because it can not seriously be argued that there was voluntary approval if the police threateningly stands at the door..

Client also refuses to believe that they were looking for illegal aliens. Illegal aliens are not sought for between sheets and pillowcases in closets, nor in the computer. The Police also looked without permission, and therefore unlawfully, into the computer.

The so-called search for illegal aliens was a pretence. It was claimed that they were there to assist the Immigration police.

The residential rights of my client and his family members have been seriously violated, as well as their privacy.

On behalf of the client I request you urgently though politely to commission the National Criminal Investigation department to investigate this sordid affair. Those guilty must be punished, at least disciplinary. This event is an additional traumatic experience for client. Client who was born in Nigeria, is an entrepreneur. He is no criminal and therefore feels seriously threatened. With this unlawful act his image has been tarnished once again.

I spoke of an additional traumatic experience, because client on December 18, 2002 was arrested in the same house to then be detained for more than 7 months in prison due to a request from Germany for his extradition. After 7 months it was established that it was the wrong man that was held in custody for a long time. From the onset client had loudly exclaimed that his arrest was a big mistake. According to the German charges the client had participated in the worldwide trading of hard drugs. And now this.

It makes little sense to send me a copy of a search warrant. If it were there at the time it could have been simply retrieved. Those commands can simply be constructed afterwards.

With great interest I await your reply.

Sincerely,
L.J.G. Voorn