KENNA

Dispute Resolution and Alternative Dispute Resolution (ADR)

Newsletter – Volume 1

A review of the judicial, regulatory and arbitral developments shaping dispute resolution in Nigeria – and the perspective of our practice unit on where they lead.

Editor's Note

Welcome to the 2026 edition of the Dispute Resolution & Alternative Dispute Resolution Newsletter.

The dispute resolution landscape in Nigeria continues to evolve in response to significant judicial pronouncements, regulatory reforms, and changing commercial realities. As businesses navigate an increasingly complex legal environment, it has become more important than ever to stay abreast of developments that shape litigation strategy, risk management, and the resolution of commercial disputes.

This edition brings together a selection of recent decisions, regulatory developments, and thought leadership that we believe will have a meaningful impact on legal practice and business operations. Among the highlights are the Supreme Court's clarification of the jurisdictional boundaries between the Federal High Court and State High Courts in land compensation disputes; its guidance on the application of Section 84 of the Sheriffs and Civil Process Act in garnishee proceedings involving public funds; and the Federal High Court's affirmation of the consumer protection jurisdiction of the Federal Competition and Consumer Protection Commission over banks and other financial institutions. Collectively, these developments continue to redefine important aspects of commercial litigation, banking regulation, public law, and consumer protection in Nigeria.

In keeping with our commitment to thought leadership, this edition also features articles authored by members of the Practice Unit addressing topical issues in dispute resolution and alternative dispute resolution. These contributions examine, among other subjects, the enforcement of judgments against public funds, the constitutional and human rights implications of prolonged incarceration on death row, and dispute management strategies in project finance and infrastructure transactions. Each article is intended to provide practical guidance while offering informed perspectives on emerging legal and commercial issues.

At KENNA, we remain committed to providing strategic, commercially focused, and solution-driven legal advice that enables our clients to anticipate risk, resolve disputes efficiently, and achieve their business objectives. We hope this publication serves as a useful resource for clients, business leaders, regulators, and members of the legal profession seeking to keep pace with the dynamic nature of dispute resolution in Nigeria.

We trust you will find this edition insightful and valuable, and we look forward to continuing to share timely analyses and perspectives on the developments shaping the future of dispute resolution and alternative dispute resolution in Nigeria.



Daze Nga, MCArb

Partner, Dispute Resolution & ADR

Introduction

Welcome to this edition of the Dispute Resolution & Alternative Dispute Resolution Newsletter, where we provide a curated overview of significant legal developments, landmark judicial pronouncements, regulatory updates, and thought leadership shaping Nigeria's dispute resolution landscape.

This edition features an analysis of three important appellate decisions that address critical issues relating to jurisdiction, the enforcement of judgments against public funds through garnishee proceedings, and the scope of the regulatory powers of the Federal Competition and Consumer Protection Commission over financial institutions. We also examine recent developments in international arbitration, including the 2026 Revision of the ICC Arbitration Rules, and consider their implications for commercial dispute resolution.

In addition, we spotlight recent publications by members of the Practice Unit, offering practical insights into topical issues such as garnishee proceedings against public institutions, the intersection of capital punishment and human rights, and dispute management strategies in project finance transactions.

As Nigeria's legal and regulatory environment continues to evolve, keeping abreast of judicial and legislative developments remains critical for businesses, financial institutions, government agencies, regulators, and legal practitioners. It is our hope that the analyses and commentaries featured in this edition will provide practical guidance, deepen understanding of emerging legal trends, and support informed decision-making, effective risk management, and the efficient resolution of commercial disputes.

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KEY INDUSTRY EVENTS

₦61.1 billion
Combined value of judgments and claims set aside, dismissed or nullified in the decisions reported in this Edition

≈ ₦509 million
Garnishee order absolute affirmed by the Supreme Court in CBN v Lidan Engineering LTD & Ors

Figures drawn from the decisions reported in this edition: ₦38.8bn (set aside, A.G. Abia v Joe Agi) + ₦20.9bn (dismissed, AIBOM v Mobil) + ₦1.4bn (nullified, Obong v Mobil).

From the Courts

Supreme Court Brings 29-Year Litigation to an End, nullifies ₦1.4 Billion Award Against Mobil in H.H. Obong & Ors v. Mobil Producing Nigeria Unlimited & Ors

SC/CV/550/2020 (Unreported)

KENNA successfully represented Mobil Producing Nigeria Unlimited (SEPNU) in a significant decision that reaffirmed the importance of jurisdiction in judicial proceedings. The Supreme Court of Nigeria ended a 29-year dispute involving Mobil Producing Nigeria Unlimited (now Seplat Energy Producing Nigeria Unlimited) ("Mobil"), dismissing an appeal against the Court of Appeal's judgment and nullifying a compensation award that had grown to approximately ₦1.4 billion.

The dispute commenced in 1997 when His Royal Highness Obong David Edu and 132 others, representing the Ekid people of Eket and Esit Eket Local Government Areas of Akwa Ibom State, instituted an action before the Federal High Court, Uyo. The claimants sought compensation in the sum of ₦379,988,000, together with interest, for the alleged compulsory acquisition of their community land by the Akwa Ibom State Government for oil exploration activities, as well as compensation for unexhausted improvements on the acquired land.

On 8 April 2014, the Federal High Court entered judgment in favour of the claimants, awarding the full amount claimed together with interest at the rate of 10% per annum from 8 April 1998 until liquidation of the judgment debt. By the time the matter reached the Supreme Court, the accumulated interest had increased the judgment sum to approximately ₦1.4 billion.

Mobil appealed the decision, and in 2018, the Court of Appeal, Calabar Division, allowed the appeal and set aside the judgment on the ground that the Federal High Court lacked jurisdiction to entertain claims relating to compulsory acquisition of land and compensation. The claimants subsequently appealed to the Supreme Court.

In a unanimous judgment delivered on 30 January 2026, a five-member panel of the Supreme Court, led by Honourable Justice Chioma Nwosu-Iheme, affirmed the decision of the Court of Appeal. The Court held that disputes relating to land ownership, compulsory acquisition of land, and compensation for unexhausted improvements fall within the exclusive jurisdiction of the State High Courts pursuant to the provisions of the Land Use Act 1978. Accordingly, the Federal High Court lacked the requisite jurisdiction to adjudicate the claims, rendering its judgment a nullity.

The Supreme Court consequently dismissed the appeal, bringing the protracted litigation to a definitive end and extinguishing the compensation award against Mobil.

The decision reinforces the well-established principle that jurisdiction is the foundation of every judicial proceeding and that any judgment delivered without jurisdiction is void, irrespective of the merits of the case. It also provides important clarification on the constitutional and statutory limits of the Federal High Court's jurisdiction in land acquisition and compensation disputes, offering valuable guidance to litigants and practitioners on the appropriate forum for instituting such claims.

1997 - THE CLAIM
Obong David Edu and 132 others claim ₦379,988,000 compensation at the Federal High Court, Uyo.

8 APRIL 2014 - FIRST JUDGMENT
Federal High Court awards the full amount claimed, plus 10% interest per annum from 8 April 1998.

2018 - APPEAL ALLOWED
Court of Appeal, Calabar Division, sets the judgment aside - the Federal High Court lacked jurisdiction.

30 JANUARY 2026 - FINALITY
Supreme Court (five-member panel, led by Honourable Justice Chioma Nwosu-Iheme) affirms; the ~₦1.4 billion award is extinguished.

Court of Appeal Quashes N38.8 billion Judgment against the Central Bank of Nigeria in Paris Club Refund Dispute in A.G. Abia & 35 Ors v Joe Agi, SAN & 6 Ors

(CA/ABJ/CV/1404/2022) (Unreported)

In a landmark decision, the Court of Appeal of Nigeria has set aside the staggering ₦38.8 billion judgment previously entered against the Central Bank of Nigeria in the long-running Paris Club Refund dispute. The Appellate Court held that the Federal High Court lacked jurisdiction to entertain what it described as a debt recovery claim, as such matters fall outside the scope of Section 251 of the 1999 Constitution.

Joe Agi SAN originally filed the suit in 2017 at the Federal High Court against the Honourable Minister of Finance, the Incorporated Trustees of the Nigeria Governors' Forum, and the Attorneys-General of the 36 States in Nigeria, claiming 20% of the Paris Club Refund as consultancy fees. The trial court entered judgment in 2022, prompting appeals by the Nigeria Governors' Forum and the Attorneys-General of the 36 States. Following the judgment, Joe Agi SAN moved swiftly to enforce judgment through garnishee proceedings, securing a Garnishee Order Nisi against the Central Bank of Nigeria (CBN), wherein the trial court proceeded to make the order absolute, prompting the CBN and the Attorneys-General of the 36 States to file appeals in respect of garnishee proceedings.

In a unanimous decision delivered on Friday, February 20, 2026, the Court of Appeal held that the Federal High Court lacked jurisdiction to entertain the suit, as debt recovery falls outside its exclusive jurisdiction. The Court further held that the Appellant, Mr Joe Agi, SAN, lacked the legal standing (locus standi) to institute the action. Consequently, the Court of Appeal allowed the appeal. Counsel to the CBN, Prof. Fabian Ajogwu, SAN of KENNA, and O.M. Atoyebi, SAN, welcomed the judgment, describing it as a major legal victory for the CBN.

₦38.8bn
Judgment set aside by the court of appeal

20%
Of the paris club refund claimed as consultancy fees

36 States
Attorneys-General on appeal with the Nigeria Governors' Forum

The Federal High Court Strikes out a suit concerning the governance of Host Community Development Trusts (HCDTs) under the Petroleum Industry Act 2021 in Incorporated Trustees of Esit Eket Youth Association v Incorporated Trustees of NNPC/MPN JV Emoimee Host Community Development Trusts & 5 Ors

(FHC/UY/CS/126/2025)

Kenna has successfully represented Seplat Energy Producing Nigeria Unlimited (SEPNU) in a Federal High Court judgment concerning the governance of Host Community Development Trusts (HCDTs) under the Petroleum Industry Act 2021. The Court, sitting in Uyo, struck out a suit brought by the Incorporated Trustees of Esit Eket Youth Association challenging the governance of the NNPC/MPN JV Emoimee Host Community Development Trust.

In its July 16, 2026 judgment, the Court upheld SEPNU's preliminary objection, holding that the Plaintiff lacked the requisite locus standi to bring the action because it was not an entity recognised under Chapter III of the PIA for HCDT administration. The Court also found that the suit disclosed no reasonable cause of action against SEPNU, which had not breached any provision of the PIA.

The decision further clarifies the statutory framework governing HCDTs and reinforces the requirement that their administration comply with the structures established under the PIA.

The Federal High Court dismisses N20.9 Billion Claim against Mobil Producing Unlimited in the Incorporated Trustees of AIBOM Oil Producing Community Development Network & 2 Ors V Mobil Producing Nigeria Unlimited & NOSDRA

FHC/UY/CS/156/2023 (Unreported)

In a recent decision with significant implications for oil spill litigation in Nigeria, the Federal High Court sitting in Uyo on May 26, 2026 dismissed a ₦20.9 billion claim brought against Mobil Producing Nigeria Unlimited (now Seplat Energy Producing Nigeria ltd).

The judgment reaffirms the foundational principle that a plaintiff lacks the requisite locus standi where the pleadings allege no civil rights or proprietary interests were infringed, depriving the court of jurisdiction to proceed and rendering the suit liable to be struck out.

The 1st Defendant (SEPNU) was represented by KENNA LP. The Court was persuaded by the submissions of Chinonso Ekuma of KENNA LP, SEPNU's counsel, who successfully argued that the plaintiffs failed to disclose any cognisable interest or infringed right capable of grounding their locus standi, noting that the plaintiffs' statement of claim was devoid of averments showing that the plaintiffs' personal interests, rights, or property were affected by the alleged acts of the defendant.
In its findings, the Court also held that the irrevocable power of attorney the Plaintiffs relied on as the basis for instituting the action was invalid because the 1st Plaintiff did not exist when the document was executed. Consequently, the Court held that the power of attorney could not sustain the suit.

This Ruling has important practical implications for oil spill litigation and community-driven legal actions in Nigeria's energy sector. The decision underscores that courts will closely scrutinise a plaintiff's pleadings to determine whether a genuine personal interest has been asserted. Claims without a specific and personal stake disclosed on the face of the pleadings will not satisfy the threshold of locus standi.

The Supreme Court Narrows the Scope of Section 84 of the Sheriffs and Civil Process Act in CBN v Lidan Engineering Ltd & Ors

SC/CV/82/2021 (unreported)

In a landmark decision on the enforcement of monetary judgments against government entities, the Supreme Court clarified the scope and application of Section 84 of the Sheriffs and Civil Process Act (SCPA). The provision regulates the attachment of funds held by public officers in satisfaction of court judgments, requiring the consent of either the Attorney-General of the Federation or the State before garnishee proceedings may be commenced. The Court's decision significantly limited the circumstances in which the Attorney-General's consent is required before this enforcement mechanism may be invoked against public funds.

The Provision

The appeal arose from garnishee proceedings instituted by Lidan Engineering Ltd and other judgment creditors to enforce a monetary judgment obtained against a government agency. The judgment creditors sought to attach funds standing to the judgment debtor's credit in accounts maintained with the Central Bank of Nigeria (CBN). The CBN challenged the proceedings, contending that, as a public officer in custody of public funds, Section 84 of the SCPA required the prior consent of the Attorney-General before any garnishee order could be made against the funds.

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The Holding

In its judgment, the Supreme Court dismissed the CBN's appeal and held that, in relation to government funds maintained under the Treasury Single Account (TSA), the CBN acts merely as banker to the Federal Government and does not qualify as a "public officer" for the purposes of Section 84 of the SCPA. Consequently, the Court held that the Attorney-General's consent is not a condition precedent to the institution or maintenance of garnishee proceedings against such funds and affirmed the garnishee order absolute made in favour of the judgment creditors.

The decision marks an important development in Nigerian judgment enforcement jurisprudence. By restricting the application of Section 84 of the SCPA, the Supreme Court has removed a significant procedural hurdle that has historically impeded the enforcement of monetary judgments against government funds held by the CBN. The judgment also provides much-needed clarity on the legal status of the CBN in garnishee proceedings, reinforcing the principle that procedural safeguards should not be deployed to frustrate the enforcement of valid court judgments.

Why It Matters

For litigants, or businesses, the decision could ease the recovery of judgment debts owed by government entities, reducing enforcement delays, legal costs, and cash-flow constraints associated with prolonged litigation. It also provides financial institutions with greater clarity on their obligations in garnishee proceedings involving public funds. Ultimately, the decision may strengthen commercial confidence in government transactions by improving the prospects of recovering debts, while reinforcing public authorities' accountability for outstanding judgment debts.

United Bank for Africa Plc v. Federal Competition and Consumer Protection Commission: Federal High Court Affirms FCCPC's Consumer Protection Jurisdiction over Banks and Financial Institutions

(FHC/ABJ/CS/1972/2025)

In a significant decision for Nigeria's financial services regulatory landscape, the Federal High Court, Abuja, reaffirmed the statutory authority of the Federal Competition and Consumer Protection Commission (FCCPC) to investigate and enforce consumer protection complaints against banks and other financial institutions, notwithstanding the regulatory oversight exercised by the Central Bank of Nigeria (CBN)

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The suit was instituted by United Bank for Africa Plc (UBA), who sought, among other reliefs, declarations that, having regard to section 251(1)(d) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 65 of the Banks and Other Financial Institutions Act, 2020 (BOFIA), and the supervisory powers conferred on the CBN, the FCCPC lacked the statutory authority to investigate complaints relating to banking operations and the financial products and services offered by licensed banks.

In its judgment delivered on 22 April 2026, the Court dismissed UBA's claims in their entirety. The Court held that neither the BOFIA nor the Central Bank of Nigeria Act confers exclusive consumer-protection jurisdiction on the CBN. Rather, the Federal Competition and Consumer Protection Act, 2018 (FCCPA) expressly empowers the FCCPC to receive, investigate, and enforce consumer protection complaints across all sectors of the Nigerian economy, including the banking and financial services industry.

The Court further held that the FCCPA is intended to operate alongside sector-specific regulatory legislation and that the FCCPC's statutory mandate regarding competition and consumer protection remains enforceable notwithstanding the existence of sector regulators. Accordingly, the Court found that the CBN's prudential and supervisory functions do not preclude the FCCPC from exercising its consumer protection powers within the banking sector. The Court consequently dismissed the action and awarded costs of ₦2 million against UBA.

The decision provides welcome judicial clarity on the relationship between the FCCPC and sector-specific regulators. It affirms that, unless applicable sector-specific legislation expressly excludes it, the FCCPC's consumer protection and competition mandates may operate alongside those of sectoral regulators. Thus, the CBN's prudential regulation and financial system stability responsibilities do not displace the FCCPC's consumer protection mandate in financial services. The same principle applies to other regulated sectors, including telecommunications, oil and gas, and electricity, where the FCCPC may exercise its statutory mandate alongside the relevant sectoral regulator. This reinforces the FCCPC's cross-sectoral role in protecting consumers and promoting fair competition across the Nigerian economy.

The judgment is expected to strengthen the FCCPC's enforcement mandate within the banking industry and may usher in increased regulatory scrutiny of banks' consumer-facing practices. Financial institutions should therefore review their customer service policies, complaint resolution mechanisms, product disclosures, and compliance frameworks to ensure alignment with not only CBN regulatory requirements but also the consumer protection obligations imposed under the FCCPA. The decision also serves as an important reminder that regulated entities may be subject to concurrent oversight by multiple regulators where their statutory mandates intersect.

Concurrent Oversight of Financial Institutions

FCCPC

Consumer protection and competition mandate under the FCCPA 2018 — may operate alongside sector regulators.

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C B N

Prudential regulation and financial system stability responsibilities under BOFIA and the CBN Act.

Contributors



Amanda Abor, ACIS
Associate



Shallom Ikenga
Associate

Regulatory and Policy Updates

Implementation of Nigeria's National Policy on Arbitration and Alternative Dispute Resolution (2024)

During the first half of 2026, implementation of Nigeria's National Policy on Arbitration and ADR 2024–2028 was approved by the Federal Executive Council. The Policy also seeks to improve investor confidence by fostering a predictable and efficient dispute resolution framework consistent with international best practices. A crucial component of the policy is Paragraph 11.0, which focuses on contract negotiation, drafting, and monitoring of arbitration.[1] The Policy mandates that The Federal Ministry of Justice("FMOJ") shall participate in the negotiation and drafting of commercial contracts involving Federal and State MDAs, particularly where foreign entities are involved. The Policy also provides guidelines for engaging legal counsel in arbitration and ADR Proceedings,[2] and establishes a structured process for the appointment of arbitrators.[3]

These measures are intended to promote consistency in contractual dispute resolution, improve government oversight of disputes, and reduce uncertainty for businesses contracting with public authorities. Although the Policy is not legislation, it provides an implementation framework that complements the Arbitration and Mediation Act 2023 and advances Nigeria's ambition to become a leading dispute resolution centre in Africa.[4]

China

China's New Arbitration Law

China has approved significant revisions to its Arbitration Law, modernising its arbitration framework to better align with international standards and improve the country's attractiveness as a seat for international arbitration. This development is particularly relevant to Nigerian businesses, given the growing commercial relationship between Nigeria and China across trade, infrastructure, energy, and investment. Nigerian companies entering into contracts with Chinese counterparts should pay particular attention to the choice of arbitration seat, the applicable arbitration rules, and the mechanisms for obtaining interim court protection and enforcing arbitral awards.

By clarifying the legal framework for foreign-related arbitration and strengthening judicial support, the reforms may improve procedural certainty for cross-border transactions. The reforms strengthen the doctrine of competence-competence, giving arbitral tribunals greater authority to determine their own jurisdiction, while also clarifying the availability of interim measures and expanding judicial support for arbitration.

The revised law also introduces greater flexibility in arbitration agreements, streamlines procedural requirements, and strengthens the enforceability of arbitral awards. Collectively, these reforms reflect China's continued efforts to improve its dispute resolution framework and reinforce its position as a leading international arbitration venue, particularly for cross-border commercial disputes arising under the Belt and Road Initiative.[5]

United Kingdom

United Kingdom Strengthens Consumer ADR under the Digital Markets, Competition and Consumers Act

In April 2026, the United Kingdom introduced new regulations to strengthen consumer alternative dispute resolution mechanisms under the Digital Markets, Competition and Consumers Act 2024. The reforms are intended to improve consumer access to efficient and affordable dispute resolution by encouraging greater use of accredited ADR providers before resorting to litigation.

The measures form part of broader reforms designed to strengthen consumer protection in digital markets, improve business accountability, and reduce the burden on courts. They also reinforce the UK's longstanding policy of promoting ADR as an effective means of resolving consumer disputes while enhancing confidence in digital commerce.[6]

ICC Arbitration Rules

Revised International Chamber of Commerce (ICC) Arbitration Rules

The 2026 ICC Arbitration Rules, which entered into force on June 1, 2026, introduce significant procedural reforms to improve the efficiency and flexibility of international commercial arbitration. Among the notable changes are the removal of mandatory Terms of Reference, the introduction of a formal procedure for the early determination of manifestly unmeritorious claims and defences, enhanced disclosure obligations for arbitrators, expanded provisions on electronic communications and electronically signed awards, and the introduction of Highly Expedited Arbitration Provisions (HEAP) for qualifying disputes.

The revised Rules also increase the monetary threshold for the automatic application of the Expedited Procedure Provisions to US$4 million, strengthen case management procedures, formally regulate tribunal secretaries, and provide greater flexibility regarding the time for rendering final awards. These developments reflect the ICC's commitment to delivering faster, more cost-effective, and technology-enabled arbitration while maintaining the institutional safeguards that distinguish ICC proceedings.

For Nigerian practitioners and arbitral institutions, the revised Rules provide useful guidance for future reforms and highlight several innovations that could further strengthen the Nigerian arbitration framework under the Arbitration and Mediation Act 2023.[7]

Contributors



Chidera Ezenwanne, ACArb
Senior Associate



Nze Emechete
Associate

Garnishee Proceedings Against Public Funds: The Narrowing Scope of Section 84 of the Sheriffs and Civil Process Act in CBN v. Lidan Engineering Ltd & Ors[8]

Authors: Daze Nga, MCArb. Shallom Ikenga and Bruno Ibegbunam

This publication examines the Supreme Court's landmark decision in *CBN v. Lidan Engineering Ltd & 6 Ors* and its far-reaching implications for the enforcement of monetary judgments against government-related entities.

The article analyses the Court's interpretation of *Section 84 of the Sheriffs and Civil Process Act (SCPA),* arguing that the decision significantly narrows the circumstances in which the prior consent of the Attorney-General is required before public funds may be attached through garnishee proceedings.

The article traces the dispute to the wrongful auction of three of six containers imported by the judgment creditors in 2004. Following successful litigation, the Federal High Court awarded the claimants ₦320 million in damages in 2012. When the judgment debt remained unsatisfied, the judgment creditors commenced garnishee proceedings against funds held by the Central Bank of Nigeria (CBN) under the Treasury Single Account (TSA). The trial court subsequently made a garnishee order absolute in the sum of approximately ₦509 million, a decision that was affirmed by the Court of Appeal. On further appeal, CBN argued that, as a public officer in custody of public funds, garnishee proceedings could not be maintained without first obtaining the consent of the Attorney-General pursuant to *Section 84 of the SCPA.*

The publication analyses the Supreme Court's rejection of that argument, highlighting the Court's finding that, in relation to funds held under the Treasury Single Account, the CBN acts as banker to the Federal Government rather than as a "public officer" within the meaning of Section 84 of the SCPA. The Court held that the CBN merely receives, manages, and disburses government funds pursuant to an ordinary banker-customer relationship. Accordingly, the statutory requirement for the Attorney-General's consent does not apply where the CBN is cited as the garnishee in respect of such funds.

FOCUS

The article traces the dispute to the wrongful auction of three of six containers imported by the judgment creditors in 2004. Following successful litigation, the Federal High Court awarded the claimants ₦320 million in damages in 2012

The article further explains how the judgment departs from the broader interpretation previously accorded to *Section 84 of the SCPA*. It argues that the Supreme Court has confined the application of the consent requirement to circumstances where the garnishee genuinely falls within the statutory meaning of a "public officer," thereby significantly reducing the practical scope of the provision and removing a longstanding procedural impediment to the enforcement of judgments against government funds.

The publication concludes that *CBN v. Lidan Engineering Ltd & 6 Ors* is a landmark decision in Nigerian judgment enforcement jurisprudence. By recalibrating the balance between protecting public funds and effectively enforcing valid court judgments, the decision provides greater certainty for judgment creditors, public institutions, financial regulators, and legal practitioners navigating garnishee proceedings involving government funds.

Capital Punishment in Limbo: The Illegality of Prolonged Death Row Incarceration in Nigeria

Authors: Ituah Imhanze FCArb and Cajetan Osisioma

The article examines the paradox within Nigeria's capital punishment regime, where the death penalty remains lawful for offences such as murder, armed robbery, treason, terrorism, and certain military offences, yet executions have become exceedingly rare because they require the President or a State Governor to sign a death warrant. This executive reluctance has resulted in a de facto moratorium on executions, leaving thousands of convicted persons on death row for prolonged and indefinite periods without execution, commutation, or pardon.

The authors argue that this prolonged incarceration on death row raises serious constitutional and human rights concerns. Although the Nigerian Constitution permits the death penalty, they contend that keeping inmates under the constant threat of execution for years amounts to cruel, inhuman, and degrading treatment, contrary to the constitutional right to dignity and Nigeria's obligations under international human rights instruments such as the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, and the Convention Against Torture.

The article further highlights the institutional tension created by the current system. While Nigerian courts continue to impose death sentences in accordance with existing laws, the executive's consistent refusal to authorize executions undermines the finality of judicial decisions and creates uncertainty within the criminal justice system.

To address these concerns, the authors recommend a comprehensive review of Nigeria's capital punishment regime. They conclude that Nigeria must resolve the contradiction between retaining the death penalty in law while effectively suspending its implementation in practice, either by meaningfully enforcing capital punishment within constitutional and human rights limits or by moving towards its formal abolition.[9]

Business Shield: Proactive Legal Engineering to Prevent Costly Disputes

Authors: Ituah Imhanze, FCArb, Amanda Abor and Chinonso Ekuma

The most cost-effective legal strategy in business relationships is to avoid disputes, as they are a predictable risk. Minimising ambiguity and conflict in legal documents such as contracts and agreements, mortgages and leases, among others, reduces these predictable risks, if not eliminating them. However, most businesses opt for a reactive approach, rather than being proactive to reduce such risk. Such thinking is expensive. Although legal defence is good, a legal shield is much better.

Proactive legal engineering entails implementing mechanisms to anticipate risks and de-escalate costly disputes. The use of clear, conflict-minimising clauses, tiered dispute-resolution mechanisms, and early dispute identification serves as a preventive shield against costly disputes.[10]

Takeaway

Proactive legal engineering entails implementing mechanisms to anticipate risks and de-escalate costly disputes.

ICC Arbitration Rules 2026: The Future of International Commercial Arbitration

Authors: Abasiemediong Etuk MCArb, Shallom Ikenga, Nnamso Ekpenyong

This publication examines the *2026 ICC Arbitration Rules*, which came into force on June 1, 2026, and analyses how the revisions are intended to make international commercial arbitration faster, more efficient, and better aligned with modern arbitral practice. While preserving the ICC's hallmark institutional oversight and scrutiny of awards, the revised Rules introduce several procedural innovations designed to streamline proceedings, reduce costs, and improve case management. The publication also considers the implications of these reforms for arbitration practice in Nigeria and identifies areas where the Nigerian arbitral framework could benefit from similar developments.

The article highlights several key amendments introduced by the 2026 ICC Rules and further evaluates these developments from a Nigerian perspective, noting that although the Arbitration and Mediation Act 2023 significantly modernised Nigeria's arbitral regime, it lacks several of the innovations now reflected in the ICC Rules, particularly early determination procedures, express regulation of tribunal secretaries, and ultra-expedited arbitration. The authors suggest that adopting similar mechanisms would enhance the efficiency, transparency, and international competitiveness of arbitration in Nigeria.

The authors conclude that the 2026 ICC Rules represent a significant evolution in international commercial arbitration by delivering faster, more flexible, and more predictable proceedings without compromising institutional oversight. They recommend that parties review and update their arbitration agreements to reflect the new procedural framework, and encourage Nigerian arbitral institutions and policymakers to draw on these reforms to strengthen Nigeria's arbitration landscape and reinforce its position as an attractive seat for international dispute resolution.[11]

When Megadeals Stumble: Resolving Project Finance and Arbitration Crossroads

Authors: Okechukwu Ekweanya, Musa Adeiza and Chinonso Ekuma

This publication explores the recurring disputes that arise in large-scale infrastructure and energy projects financed through project finance structures. It explains that because these projects involve multiple stakeholders, complex financing arrangements, and long implementation periods, disputes are often inevitable despite careful contractual planning.

The authors argue that the key to preserving project value lies in aligning contractual safeguards with commercial realities and adopting dispute resolution mechanisms that prioritise project continuity over confrontation.
The authors further examine the remedies available to lenders, including security enforcement and step-in rights. Consequently, project finance documents should be carefully structured to balance lenders' enforcement rights with mechanisms that preserve the project's continuity.

The article also highlights the importance of technical evidence in project finance arbitration. It notes that disputes frequently turn on issues such as delay analysis, engineering performance, and financial loss modelling, requiring expert evidence to determine liability and quantify damages.

Finally, the authors advocate for multi-tier dispute resolution mechanisms that require parties to engage in negotiation, expert determination, or dispute adjudication before commencing arbitration. They conclude that arbitration should not merely determine liability but should serve as a commercial tool for restoring financial equilibrium, preserving stakeholder relationships, and ensuring that infrastructure projects remain operational despite disputes.[12]

Enforcing Arbitral Awards in Nigeria under the Arbitration and Mediation Act 2023

Authors: Ituah Imhanze, FCArb, Chidera Ezenwanne ACArb, Chidera Mbaogu ACIS

The publication examines the enforcement of arbitral awards in Nigeria under the *Arbitration and Mediation Act 2023 (AMA 2023),* highlighting the Act's role in modernising Nigeria's arbitration framework and aligning it with international best practices. It also discusses notable innovations introduced by the AMA 2023, including the enforceability of interim measures granted by courts, arbitral tribunals, and emergency arbitrators, as well as the introduction of the optional Award Review Tribunal (ART), which provides parties with an internal arbitral review mechanism before resorting to the courts.

The publication further emphasises that obtaining judicial recognition of an arbitral award is only one stage of the enforcement process, with actual recovery of assets being governed by the Sheriffs and Civil Process Act (SCPA). It analyses key enforcement mechanisms such as garnishee proceedings, attachment and sale of movable and immovable property, and cross-state enforcement through judgment registration. It also identifies persistent challenges in Nigeria, including the misuse of the public policy defence, administrative bottlenecks during execution, and the practical implications of the newly introduced Award Review Tribunal.

The publication concludes by recommending measures to strengthen Nigeria's enforcement regime, including drafting comprehensive arbitration clauses, conducting early asset tracing, improving coordination between courts and enforcement agencies, and encouraging courts to adopt a consistently pro-enforcement approach.[13]

A Case for Summary Disposal of Arbitral Claims in Nigeria: Lessons from the Arbitration Act 2025 of England and Wales

Authors: Jude Nnodum Jnr. Ph.D

The publication examines whether Nigeria should introduce summary disposal of arbitral claims, drawing lessons from the Arbitration Act 2025 of England and Wales. It explains that the English Act expressly empowers arbitral tribunals to summarily determine claims or issues with no real prospect of success, thereby enabling disputes to be resolved more efficiently. In contrast, *Nigeria's Arbitration and Mediation Act 2023 (AMA 2023)* contains no equivalent provision.

The publication argues, however, that a purposive interpretation of the AMA 2023, particularly its emphasis on the expeditious conduct of arbitral proceedings and the tribunal's discretion over procedure, could permit Nigerian arbitral tribunals to adopt summary disposal in appropriate cases.
The publication also highlights the growing importance of summary disposal in modern arbitration, noting that arbitration has become increasingly complex, lengthy, and susceptible to tactical delays by parties seeking to prolong proceedings.

The publication concludes that Nigeria can strengthen its position as a regional arbitration hub by amending the Arbitration and Mediation Act 2023 to expressly recognise summary disposal of arbitral claims, following the example of England and Wales. Pending legislative reform, it recommends that Nigerian arbitration institutions adopt early determination procedures within their rules and that arbitral tribunals apply the existing provisions of the AMA 2023 purposively to promote efficient, cost-effective, and timely dispute resolution while safeguarding the parties' right to a fair hearing.[14]

Operating in the New Upstream: From Regulatory Impact to Bottom–Line Impact

Authors: Ituah Imhanze, FCArb, Ozioma Soludo ACArb and Muhammad Yasir Abubakar-Sadiq, AICMC

The publication examines how the Petroleum Industry Act 2021 (PIA), together with the Nigerian Upstream Petroleum (Commercial) Regulations 2025, the Upstream Petroleum Operations (Cost Efficiency Incentives) Order 2025, and the Nigeria Tax Act 2025, has transformed Nigeria's upstream petroleum sector. It notes that operators must maintain accurate production and cost records, comply with environmental management requirements, and meet host community obligations to retain their licences and avoid regulatory sanctions.

The publication further analyses the commercial implications of these regulatory reforms, observing that compliance now has a direct impact on operators' profitability, operational continuity, and licence security. While the new framework increases compliance costs through enhanced environmental obligations, regulatory reporting, and community development commitments, it also creates opportunities for operators to benefit from tax incentives under the Upstream Petroleum Operations (Cost Efficiency Incentives) Order 2025 where they achieve prescribed cost-efficiency benchmarks.

The publication concludes that regulatory compliance has evolved from a purely legal obligation into a strategic business imperative for upstream operators. It recommends that operators integrate compliance into their core business strategy by maintaining robust internal controls, implementing effective environmental management systems, accurately tracking operational costs, and fostering constructive relationships with host communities. Ultimately, it argues that operators who align regulatory discipline with operational efficiency and long-term planning will be better positioned to protect their licences, maximise financial performance, and remain competitive in Nigeria's evolving upstream petroleum industry.[15]

Oaths, Affidavits, and Admissibility: What Katagum v. Umar means for Witnesses and Counsel in Litigation[16]

Authors: Ituah Imhanze, FCArb, Olusegun Akeju ACArb, Muhammad Yasir Abubakar-Sadiq AICM

The publication examines the Supreme Court's decision in Katagum v. Umar & Anor, which upheld the competence of a witness statement on oath despite an admission that it was signed or sworn to in a lawyer's office rather than before a Commissioner for Oaths. The Court relied on the presumption of regularity arising from the Commissioner's stamp and signature, the subsequent oath taken in court, the failure to object before the statement was adopted, and the absence of demonstrated miscarriage of justice.

The article highlights the practical difficulty the decision creates, particularly when irregularities in a witness statement only become apparent during cross-examination. The authors argue that requiring objections before adoption may prevent parties from challenging defects they could not reasonably have discovered earlier.

The article concludes by recommending a balanced approach that permits objections arising from cross-examination and allows parties a reasonable opportunity to establish whether a statement was properly sworn. This would preserve the pursuit of substantive justice without undermining the procedural safeguards governing witness statements on oath.

Key Events & Highlights

AUGUST 2026

The Nigerian Bar Association, Annual General Conference 2026

The flagship gathering of the Nigerian Bar Association brings together practitioners, judges, regulators and in-house counsel to examine the most pressing issues facing the legal profession and the administration of justice in Nigeria.

SEPTEMBER 2026

The Nigerian Institute of Chartered Arbitrators (NICArb) Annual Conference 2026

The Institute's annual conference convenes arbitrators, ADR practitioners and commercial stakeholders to consider developments in arbitration practice and the future of alternative dispute resolution in Nigeria and beyond.

Key Contacts



Daze Nga, MCArb

Partner

dnga@kennalp.com



Chidera Ezenwanne, ACArb

Senior Associate

cezenwanne@kennalp.com

For further information on the issues discussed in this article, contact our legal team at counsel@kennalp.com

Endnotes

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16. LPELR – 83085 (SC)



CONTACT

LAGOS
Kenna Place
8, Ogunyemi Road, Palace Way, Oniru PO Box 73002, Victoria Island,
Lagos

ABUJA
1st Floor, Novare Central,
Plot 502 Dalaba Street,
Wuse Zone 5, FCT 900285,
Abuja

ENUGU
Michael Place
3, Emmanuel Ngwu Street,
Thinker Corner, 400211
Enugu State.

+234 811 395 1052, +234 811 395 1053 | counsel@kennalp.com | www.kennalp.com