OLANIWUN AJAYI

DISPUTES

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05 2026 Outlook

Foreword

The year 2025 was marked by a series of legal and regulatory developments that redefined the contours of dispute resolution in Nigeria. Courts and regulatory institutions delivered decisions that clarified constitutional boundaries, reshaped public law principles, refined commercial expectations, and responded to an increasingly complex regulatory environment. These developments occurred alongside sweeping reforms in taxation, insurance, securities regulation, Nigerian regional development, data governance, and civil procedure, signalling a continued shift toward a more structured and compliance-driven legal landscape.

In constitutional and public law, the appellate courts reaffirmed the limits of governmental authority through decisions on the doctrine of necessity, revenue measures inconsistent with the Constitution, and the proper forum for fundamental rights enforcement. The emergency declaration in Rivers State, together with the suspension of the Governor and members of the legislature, and the litigation that followed, brought renewed focus to the constitutional thresholds for proclaiming emergencies, the jurisdiction of courts to review such actions, and the issue of locus standi with respect to challenging such declarations. These disputes underscored the judiciary's role in maintaining constitutional order amidst political instability.

Courts also clarified the interface between public law and commercial expectations. They confirmed that government bid invitations do not, in themselves, create legitimate expectations, and that policy circulars only confer such expectations where they contain clear and unambiguous assurances. The judiciary also restated that claims seeking to compel the performance of public duties must follow the specialised procedures for judicial review, regardless of how such reliefs are framed.

2025 also witnessed significant statutory reform. The Nigerian Insurance Industry Reform Act introduced major changes to capitalisation, governance, investment limits, actuarial oversight, claims settlement, and policyholder protection. Regional development received renewed statutory attention through the establishment of South West and South South Development Commissions, each with dedicated funding and expansive mandates likely to generate interpretive and accountability disputes. Data governance advanced with the NDPA General Application and Implementation Directive, which clarified the operationalisation of the data protection framework and extended oversight to emerging technologies. Procedurally, the High Court of the FCT (Civil Procedure) Rules 2025 introduced extensive amendments on timelines for filing processes, service of court processes, fast track procedures, written address standards, and court sittings, aimed at strengthening efficiency and procedural discipline.

Foreign jurisprudence continued to provide persuasive comparative insight, including decisions on executive authority in trade regulation, digital platform governance, equality law, personal autonomy, cross border taxation, mental health and criminal responsibility, and freedom of information. These global trends remain relevant to Nigeria's evolving dispute landscape.

Looking ahead, 2026 is set to experience heightened legal and regulatory activity. Pre-election disputes, intensified tax enforcement under the new tax framework, stricter oversight in the insurance and securities sectors, jurisdictional tensions between petroleum regulators, minimum wage implementation disputes, investment and capital market challenges, and the growing impact of artificial intelligence on intellectual property and professional ethics are expected to dominate. Fintech regulation and the implications of banking recapitalisation policies will add further complexity.

This Disputes Wrap Up and Outlook distils the defining legal developments of 2025 and identifies the themes that may shape dispute resolution in 2026, providing businesses, public institutions, and practitioners with clear insight into emerging risks and evolving legal doctrines.

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NOTABLE NIGERIAN CASES

The Doctrine of Necessity cannot be invoked to justify the continued existence of a deliberately contrived illegal or unconstitutional status quo - **R.S.H.A. v. Govt., Rivers State [2025] 7 NWLR (Pt. 1990) 591 (SC)**

Brief Facts

The Rivers State House of Assembly (RSHA) filed an originating summons at the Federal High Court, Abuja, challenging the legality of the Governor's withdrawal and disbursement of state funds without a valid Appropriation Law for the 2024 fiscal year. The RSHA alleged that the Governor had presented and assented to a 2024 Appropriation Bill passed by only four members of the House, contrary to the quorum and membership requirements under Sections 91 and 96 of the 1999 Constitution (as amended). Relying on prior judicial pronouncements affirming the invalidity of the four-member assembly, the RSHA contended that any release of public funds after 30.06.2024, in the absence of a valid Appropriation Law, was unconstitutional.

On 30.10.2024, the Federal High Court upheld the RSHA's position, declaring the 2024 Appropriation Law invalid and the subsequent fund withdrawals unconstitutional. The Governor appealed to the Court of Appeal, which held that the Federal High Court lacked jurisdiction but did not disturb the trial court's findings on the illegality of the Governor's actions. Dissatisfied, the RSHA appealed to the Supreme Court, alongside eight related appeals and cross-appeals that were consolidated under its main appeal.

One of the pivotal issues raised before the Supreme Court was whether the doctrine of necessity can be lawfully invoked to justify the presentation and passage of an Appropriation Bill by an unconstitutionally constituted legislative assembly, and the consequent disbursement of state funds without adherence to constitutional processes.

Decision of the Court

In a unanimous decision, the Supreme Court allowed the appeal, holding that the Court of Appeal erred in striking out the suit for lack of jurisdiction. The Court affirmed that the Federal High Court was competent to determine the matter. On the substantive issue, the Court firmly rejected the Governor's reliance on the doctrine of necessity to justify presenting the 2024 Appropriation Bill to an unconstitutionally constituted House of Assembly.

The Supreme Court underscored that public officials must act strictly within constitutional boundaries, regardless of political challenges or inconvenience.

The apex court held that the doctrine cannot be invoked to sustain or legitimize a deliberately contrived unconstitutional arrangement. It emphasized that the doctrine of necessity exists only to preserve legality in genuine emergencies, not to excuse political expediency or executive lawlessness.

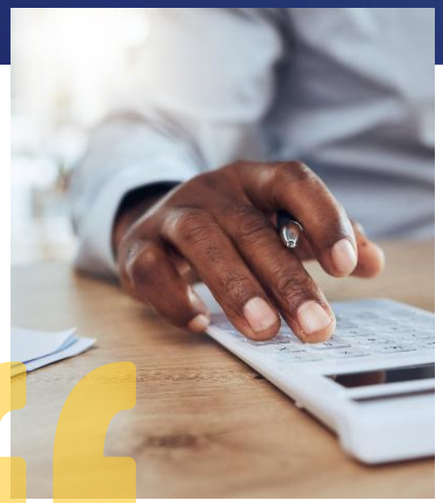
The Supreme Court underscored that public officials must act strictly within constitutional boundaries, regardless of political challenges or inconvenience. To hold otherwise, the Court cautioned, would normalize constitutional breaches and embolden executive overreach. The decision reaffirms the supremacy of the Constitution and establishes that governance actions taken under an unconstitutional framework are null, void, and without effect, regardless of the motives behind them.

Commentary

The decision provides a carefully calibrated clarification of the limits of the doctrine of necessity within Nigeria's constitutional framework. While recognising that the doctrine remains an important constitutional safety valve in truly exceptional circumstances, the Court reiterated that its function is to preserve constitutional order, not to validate arrangements that originate in clear constitutional violations. In doing so, the Court distinguished between legitimate recourse to emergency mechanisms, such as those contemplated under section 305 of the Constitution, which permit temporary and controlled departures from ordinary processes to avert threats to public order or public safety, and attempts to invoke "necessity" to sustain a status quo that was unconstitutional from inception.

The judgment therefore reinforces the principle that constitutional compliance is the default and mandatory standard, and that any exceptions must arise within the narrow and expressly regulated pathways provided by the Constitution itself. Necessity cannot be used retrospectively to sanitise deliberate deviations from constitutional requirements or to confer legitimacy on an assembly not constituted in accordance with the law. In this way, the Court preserves both the integrity of emergency powers where properly invoked and the overarching supremacy of the Constitution in ordinary governance.

The Taxes and Levies (Approved List for Collection) Act 2004 declared unconstitutional for exceeding legislative competence, and the Abia State Physical Planning and Infrastructural Development Fund Board Law 2010 (as Amended) struck down for violating section 44 of the Constitution - **A-G, Abia State & Ors v. Imo Transport Co. Ltd [2025] LPELR-80609(SC)**



…the magistrate and the Board from enforcing the levy, an order of certiorari quashing the criminal summons, and declarations that the Abia State Government and its agencies lacked power under the Constitution

Brief Facts

Imo Transport Company Ltd (the Respondent) was served with a criminal summons issued by a Chief Magistrate of Magistrate Court 3, Umuahia, at the instance of the Chairman of the Abia State Infrastructural Development Fund Board (the Board). The complainant alleged that the company had failed, without sufficient cause, to pay the sum of ₦4,200,000 as Infrastructural Development Levy assessed under the Abia State Infrastructural Development Fund Law No. 8 of 2010 (as amended) (Abia Law). The levy was treated as an offence punishable under section 18 of that Law.

In response, the Respondent commenced an action by originating motion at the High Court, seeking orders of prohibition restraining the magistrate and the Board from enforcing the levy, an order of certiorari quashing the criminal summons, and declarations that the Abia State Government and its agencies lacked power under the Constitution and the Taxes and Levies (Approved List for Collection) Act (the Taxes Act) to impose or collect the levy. The Respondent also challenged the validity of specific sections of the Abia Law as inconsistent with the Constitution and the Taxes Act, and complained about the use of "consultants" and the involvement of the magistrate to enforce an alleged illegal levy.

The High Court dismissed the originating motion in its entirety and refused all eight reliefs sought. On appeal, the Court of Appeal allowed the appeal, set aside the High Court's decision, and granted all the reliefs. Dissatisfied, the Appellants appealed to the Supreme Court. The appeal turned on the resolution of the sole issue to wit: "Whether the Court of Appeal correctly held that the Abia State House of Assembly lacked the legislative competence to enact Sections 4, 6, 9, 10 and 18 of the Abia Law and that Sections 4, 6, 9, 10 and 18 of the Abia Law are inconsistent with the Constitution and the Taxes Act and are therefore unconstitutional, illegal, null and void".

Decision of the Court

The Supreme Court first considered the legislative competence of the Abia State House of Assembly in the light of section 4 of the Constitution. It affirmed that physical planning and infrastructural development are not listed in either the Exclusive or Concurrent Legislative Lists and are not matters in respect of which the National Assembly is otherwise empowered by the Constitution to legislate.

They therefore fall within the residual legislative domain of the States. The Abia House of Assembly, in principle, had the competence to legislate on physical planning and infrastructural development fees.

The Court then turned to the Taxes Act. It noted that the Taxes Act purported to allocate and distribute responsibility for the collection of various taxes and levies between the Federal, State and Local Governments, and to bar anybody other than the designated authority from collecting those revenues. The Court held that this subject matter is not contained in the Exclusive or Concurrent Lists and does not flow from any other specific grant of legislative authority to the National Assembly. In so far as the Taxes Act seeks to distribute and assign taxing powers and revenue collection responsibilities on matters outside the constitutional legislative lists, it is beyond the competence of the National Assembly. Sections 1 and 2 of the Taxes Act, together with several items in its Schedules dealing with such levies, were held to be ultra vires and in conflict with section 4 of the Constitution and are unconstitutional and void to that extent.

The Court further held that the Taxes Act could not be rescued as an "existing law" under section 315 of the Constitution. An existing Decree or law can only be deemed an Act of the National Assembly or a State law where it relates to a matter on which that legislature is constitutionally empowered to make laws, thus, an existing law that deals with a matter outside those powers cannot be transformed into a valid Act or law through section 315.

The Supreme Court further assessed the Abia Law against section 44 of the Constitution. It noted that sections 4, 5 and 18 of the Law imposed a mandatory "physical planning and infrastructural development fee" payable by property owners, occupiers, business owners and operators of loaded transport vehicles, created an offence for non-payment, and permitted forfeiture of property in some circumstances. The Court found that the money being exacted was the private property of the payers and that compelling payment under the threat of penal sanction amounted to a compulsory acquisition of their money.

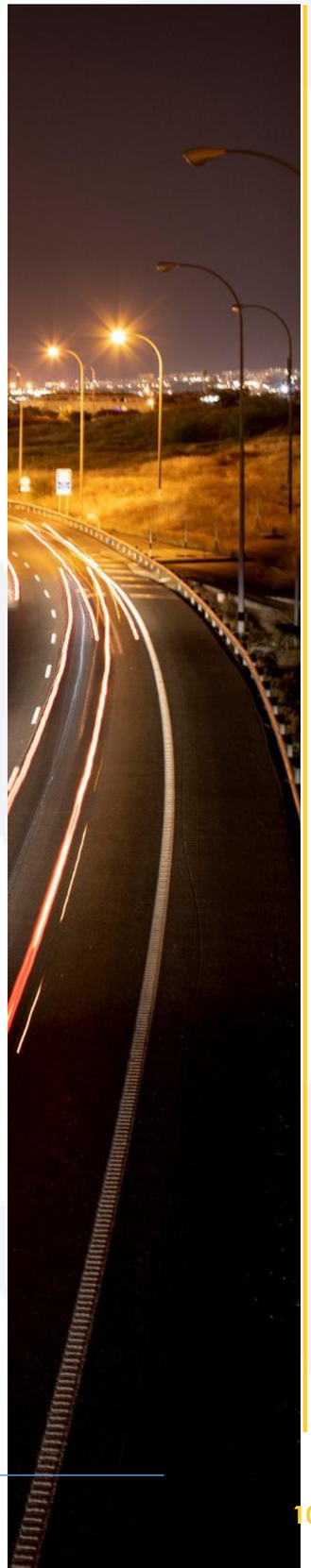
The Court held that such compulsory exaction was not saved by section 44(2)(a) of the Constitution, which protects general laws for the imposition and enforcement of any tax, rate or duty. The Court held that the Abia Law, on its terms and purpose, did not qualify as a tax, rate or duty, but as a levy designed to raise funds for public infrastructure that should ordinarily have been financed from the State's substantial receipts from the Federation Account. The Court held that the Abia Law therefore, amounted to an unconstitutional compulsory acquisition of property contrary to section 44(1) and was void to the extent of its inconsistency.

In a strong closing observation, the Court remarked that the persistent failure of the State to use its substantial allocations to develop infrastructure, and the attempt to shift the burden back to citizens through compulsory levies, undermined the sovereignty of the people and defeated the purpose of section 162(3) and (4) of the Constitution. The appeal was dismissed, and costs of ₦3,000,000 were awarded against the appellants.

Commentary

This decision is a defining statement on fiscal federalism and the constitutional boundaries of revenue-raising powers. The Court affirms that the National Assembly cannot, under the pretext of harmonising taxes and levies, assume or redistribute taxing authority on matters that lie outside the exclusive and concurrent legislative lists. Any such attempt, as reflected in the Taxes Act, is ultra vires and incapable of producing legal effect. The judgment equally reiterates that where a matter is not constitutionally allocated to the National Assembly, the legislative field belongs to the States (whether exclusively or concurrently), yet State legislation remains firmly constrained by the overarching supremacy of the Constitution.

Equally significant is the Court's treatment of development-related compulsory levies. By holding that the Abia Law levy amounted to a compulsory acquisition of money that does not fall within the constitutional exceptions for taxes, rates or duties under section 44(2)(a), the Court drew a fine line around innovative revenue devices that attempt to sidestep constitutional protections. The decision strengthens the supremacy clause, reasserts the constitutional limits on legislative competence under section 4, and underscores the principle that governments cannot shift their developmental responsibilities to citizens through unconstitutional exactions, particularly where established revenue mechanisms already exist.



Courts must give practical effect to Chapter II of the Constitution in protecting consumers: reaffirming constitutional accountability in private and public service delivery- **Anene v. MTN (Nig.) Comm. Plc [2025] 16 NWLR (PT. 2010) 1.**

Brief Facts

The appellant, a subscriber to the respondent's mobile network, began experiencing unexplained and recurrent deductions from his airtime over a period of time. On 18.05.2014, while participating in a live radio programme, he discovered that his airtime had been completely depleted as a result of these deductions, leaving him stranded and unable to recharge because it was a Sunday. Further inquiry revealed that the deductions were attributed to charges for a caller-tune service which he consistently maintained he had never subscribed to. When he lodged a complaint, the respondent acknowledged the issue, refunded ₦700, deactivated the service, and undertook not to effect further unauthorised deductions. Despite this assurance, the respondent eventually resumed the same deductions, again charging him for a service he insisted he had never opted into.

Faced with persistent unauthorised deductions and the disruption of his quiet enjoyment of airtime he had purchased, the appellant commenced an action at the High Court of the Federal Capital Territory, Abuja. He sought declaratory reliefs, an order restraining further deductions, a refund of all unlawfully deducted sums, general damages of ₦50,000,000, and ₦1,000,000 as costs of litigation. After evaluating the evidence, the trial court found in his favour and awarded ₦5,000,000 as general damages for the inconvenience, hardship, and discomfort occasioned by the respondent's conduct, along with ₦500,000 as costs.

The respondent appealed to the Court of Appeal, which affirmed the trial court's findings on liability but held that the award of general damages was excessive and not supported by the circumstances. It therefore reduced the general damages to ₦400,000 and reassessed the cost of litigation at ₦100,000. Dissatisfied with the reduction, the appellant appealed further to the Supreme Court.

Decision of the Court

The Supreme Court held that the trial court applied the correct principles in assessing damages and was justified in awarding ₦5,000,000 as general damages rather than the ₦50,000,000 claimed by the appellant, which it considered excessive in light of the evidence. In doing so, the Court underscored the broader public policy commitment to protecting consumers and ensuring fairness in the delivery of essential services.

> *... the Court recognised it as a statutory instrument designed to operationalise the constitutional commitment to protect citizens and promote social and economic justice.*

The Court stressed that the judiciary shares a constitutional responsibility to affirm and entrench government policies aimed at safeguarding the public and promoting equitable service standards. It noted that the persistent impunity of service providers who wilfully impose unauthorized charges, and who pursue contentious litigation rather than adopting remedial approaches must be firmly discouraged. In the Court's view, judicial reluctance to uphold consumer rights would amount to undermining public policy designed for the protection of citizens.

Commentary

This decision reflects a deliberate judicial effort to give meaningful effect to the fundamental objectives and directive principles of state policy contained in Chapter II of the 1999 Constitution. Although traditionally regarded as non-justiciable, the Court has continued to recognise that these provisions acquire practical enforceability once the legislature enacts statutory frameworks designed to actualize them.

This approach is consistent with the Court's reasoning in A.-G. Ondo State v. A.-G., Federation [2002] 9 NWLR (Pt. 772) 222, where it underscored that Chapter II is not self-executing and requires legislative intervention for its implementation. In that case, the Court held that the Corrupt Practices and Other Related Offences Act was constitutionally valid because it gave legislative expression to the directive principles, particularly under item 60(a) of the Exclusive Legislative List. Uwaifo, J.S.C., emphatically noted that the Constitution places the entire content of Chapter II within the exclusive legislative domain of the National Assembly, thereby enabling Parliament to craft enforceable rights out of aspirational constitutional commitments.

In the extant case, the Court adopted the same interpretive philosophy. Although the Federal Competition and Consumer Protection Act (FCCPA) does not expressly invoke Chapter II, the Court recognised it as a statutory instrument designed to operationalise the constitutional commitment to protect citizens and promote social and economic justice. In this way, the FCCPA functions as a bridge between the aspirational character of Chapter II and the creation of enforceable consumer rights.

Importantly, the Court reaffirmed its earlier position that the obligation under section 13 of the Constitution, to conform to, observe, and apply the provisions of Chapter II, is not confined to organs of government alone. That duty extends to private persons and corporate entities. In Anene's case, this principle formed the foundation for imposing responsibility on MTN to uphold the consumer protection standards embodied in Chapter II and expressed through the FCCPA.

Taken together, the decisions deepen the constitutionalising of consumer protection and affirm that rights derived from statutes enacted pursuant to Chapter II are fully enforceable against individuals, corporations, governments, and their agencies. This decision therefore continues the Court's evolving jurisprudence of transforming the directive principles from mere constitutional aspirations into operative norms that shape public and private conduct.

An injunction seeking to compel the performance of a public duty, irrespective of how it is couched, is a mandamus application. Such relief must be sought by judicial review, not writ of summons - **Nig. Agip Exp. Ltd. v. Malabu Oil & Gas Ltd. [2025] 15 NWLR (Pt. 2009) 551.**

Brief Facts

The dispute traces back to the allocation of OPL 245. The 1st Respondent was first granted the block on 29.04.1998, but the Federal Government revoked the allocation on 02.07.2001. This revocation led to litigation that was eventually resolved through a settlement agreement executed on 30.11.2006, pursuant to which OPL 245 was restored to the 1st Respondent by letter dated 02.07.2010.

Several years later, following the execution of the "Block 245 Resolution Agreement" on 29.04.2011 and acting under section 2 of the Petroleum Act, the Federal Government issued a fresh letter of allocation dated 11.05.2011 awarding OPL 245 to the Appellant and the 5th Respondent. The 1st Respondent contended that this action breached the earlier settlement and divested it of rights previously affirmed by the Government.

On 17.03.2017, the 1st Respondent commenced proceedings at the Federal High Court by a General Form of Complaint (writ). In substance, its pleadings sought orders compelling the 3rd Respondent, a public officer, to act in a particular way regarding the administration of OPL 245. Although framed as injunctive reliefs, the core of its complaint was that the 3rd Respondent had unlawfully exercised statutory powers and ought to be compelled to reverse or remedy the consequences of that exercise.

The Appellant objected to the competence of the suit, arguing that because the reliefs sought required the performance of a public duty, the action should have been commenced by judicial review under Order 34 of the Federal High Court (Civil Procedure) Rules 2009 (the Rules), not by writ of summons. The Appellant also raised other objections, including limitation under the Public Officers Protection Act and the competence of the persons who initiated the action on behalf of the 1st Respondent. The trial court rejected all objections and held that the suit was properly commenced.

Dissatisfied, the Appellant appealed. Before the Court of Appeal, one of the central issues was whether the 1st Respondent could properly proceed by writ where the substance of its claim sought to compel a public officer to act, a relief that, under Order 34 rule 1(1) of the Rules, "shall" be brought by application for judicial review. The Court of Appeal therefore scrutinised the pleading, particularly paragraph 29 of the statement of claim, to determine the true nature of the relief sought and whether the improper mode of commencement rendered the action incompetent.

> ***Judicial review exists to impose discipline, timelines, and evidential rigour on challenges to governmental action. Allowing parties to bypass that process by dressing mandamus in the language of injunction would undermine that structure.***

Decision of the Court

The Court held that, although the relief sought by the 1st Respondent was framed as an injunctive relief, a consideration of paragraph 29 of the statement of claim revealed that it was, in substance, a request for mandamus. The order sought was intended to compel the 3rd Respondent, a public officer, to act in a specific manner, which squarely falls within the scope of judicial review.

The Court held that, although the use of the word "*may*" in Order 34 Rule 1(2) confers discretion as to whether proceedings may be commenced by writ of summons or by way of judicial review, an examination of paragraph 29 of the statement of claim demonstrates that the relief sought was, in substance, mandatory rather than injunctive. The orders requested were directed at compelling the 3rd Respondent, a public officer, to act in a particular manner. This shifted the character of the relief from an injunctive remedy contemplated under Order 34 Rule 1(2), which is permissive in nature, to one of mandamus provided for under Order 34 Rule 1(1), which is expressed in mandatory terms through the use of the word "*shall.*" By commencing the action by writ of summons, the 1st Respondent departed from the statutorily prescribed procedural framework governing challenges to the exercise of statutory powers by public officers. The Court accordingly held that such commencement constituted an abuse of court process and reaffirmed that the proper mode for initiating an action of this nature is by an application for judicial review.

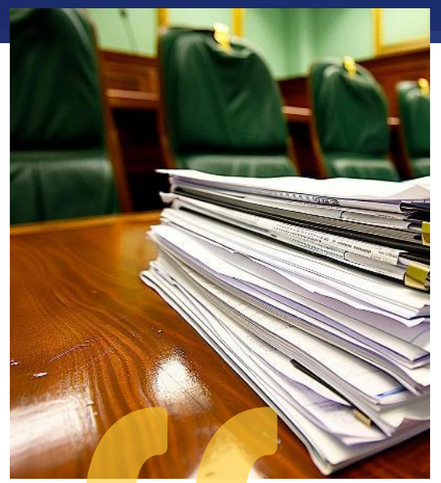
Commentary

This decision provides an important procedural clarification on the proper avenue for challenging the exercise of statutory powers. Its significance lies not in restating the Rules, but in the Court's firm insistence that litigants cannot manipulate procedural form to escape the judicial review framework. By interrogating the substance of the claim rather than its framing, the Court reinforced that any relief which, in effect, seeks to compel official action is inherently mandamus in character and must follow the structured safeguards of judicial review.

Beyond procedural technicality, the decision protects the integrity of public law litigation. Judicial review exists to impose discipline, timelines, and evidential rigour on challenges to governmental action. Allowing parties to bypass that process by dressing mandamus in the language of injunction would undermine that structure. The Court's approach therefore strengthens administrative accountability by ensuring that disputes involving statutory powers are channelled through the mechanism specifically designed for them.

In reaffirming that drafting choices cannot dictate procedure, the decision also sends a clear signal to practitioners: the court will always elevate legal character over linguistic strategy. This enhances predictability in public law litigation and re-emphasises that procedural compliance is not a matter of convenience but of jurisdictional propriety.

A court process filed in compliance with the rules of court existing at the time cannot be invalidated retroactively by subsequent amendments – **F.B.N. Plc v. Asikpo [2025] 16 NWLR (Pt. 2012) 473**



The Court held that Statutory instruments and subsidiary legislation, including rules of court, do not operate retrospectively unless expressly stated.

Brief Facts

The Respondent initiated civil proceedings against the Appellant at the High Court of Akwa Ibom State, sitting in Ikot Ekpene (Trial Court), by a Writ of Summons dated 25.04.2008. As the matter progressed, the respondent sought leave of court to amend its originating process which relief was granted.

Pursuant to the order of Court, the Writ of Summons was amended on 13.07.2009, after which the matter was reassigned a new suit number, HT/68/2008. However, after the amendment, the Appellant filed a Notice of Preliminary Objection challenging the jurisdiction of the Trial Court to entertain the suit. The Appellant contended that the original Writ of Summons filed in 2008 was fundamentally defective because it did not bear the signature of the Respondent's legal practitioner as required by the law and particularly, the Akwa Ibom State High (Civil Procedure) Rules.

The Trial Court, in its ruling, dismissed the preliminary objection. The Trial Court held that the amendment had been validly granted and that the objection lacked merit. It therefore directed that the case proceeds to hearing on the merits.

Dissatisfied with the ruling, the Appellant appealed to the Court of Appeal. The Court of Appeal, after reviewing the records and evaluating the submissions of counsel, dismissed the appeal and affirmed the decision of the trial Court, holding that the amendment was proper and that the trial Court was right to assume jurisdiction. Still aggrieved, the Appellant further appealed to the Supreme Court. At the Supreme Court, counsel to the Appellant argued that the requirement of signing a writ of summons is a necessity for invoking the trial Court's jurisdiction, making copious reference to case law on this point. However, the Respondent alleged that such requirement is not found under the High Court (Civil Procedure) Rules of Akwa Ibom State, 1989 (1989 Rules) under which the suit was commenced.

The determination of the appeal at the Supreme Court turned on whether the Court of Appeal was right in holding that the writ of summons was properly filed before the trial Court once it was signed by the Registrar of the said court even though it was not signed by the Legal Practitioner who issued same.

Decision of the Court

The Supreme Court held that both the original and amended writ were filed before the commencement of the High Court of Akwa Ibom State (Civil Procedure) Rules 2009, which came into force on 01.12.2009. The applicable regime at the time of filing was therefore the 1989 Rules. The legal question was one of compliance with those extant rules—not the retroactive application of a later procedural framework.

The Court made clear that the 2009 Rules could not be retrospectively invoked to assess the validity of the Respondent's suit.

The Court affirmed the principle that a process properly filed under the rules in force at the material time cannot be rendered invalid merely because the rules were later amended. The Court held that Statutory instruments and subsidiary legislation, including rules of court, do not operate retrospectively unless expressly stated. Accordingly, the validity of an originating process must be measured strictly against the rules in force at the time it was issued.

In distinguishing the authorities relied on by the appellant, the Court noted that those decisions concerned Order 26 rule 4(3) of the Federal High Court (Civil Procedure) Rules 2000, which expressly required that pleadings be signed by a legal practitioner, a requirement absent from the 1989 Akwa Ibom High Court Rules. The Court stressed that allowing later procedural amendments to invalidate earlier compliant filings would create instability, expose litigants to unfair uncertainty, and undermine the orderly administration of justice.

The appeal was dismissed, and cost of ₦5,000,000.00 was awarded against the appellant.

Commentary

The Supreme Court's reasoning reflects a principled commitment to procedural certainty and fairness in litigation. By affirming that a process filed in compliance with the rules existing at the time cannot later be invalidated by a subsequent amendment, the Supreme Court reinforced the stability of the procedural framework and protected litigants who acted within the law as it stood. This ensures that parties are not exposed to shifting procedural goalposts or retroactive invalidation of steps validly taken.

This decision is particularly interesting when viewed against earlier authorities such as **Matthew & Ors. v Ewuyemi** [2024] LPELR-62671(CA) P6 -7 Para A – **A & SPDC (Nig) Ltd. v Oruwari & Ors**. [2012] LPELR-14252(CA) P6 Para B – C which emphasise that rules of court, being procedural, ordinarily operate retrospectively. The present decision does not depart from that principle to the extent that such Rules are expressly stated to apply retrospectively, thus, retrospective operation cannot be presumed where doing so would invalidate acts that were lawful when performed, especially in the absence of clear language mandating such effect.

By refusing to allow a later procedural rule to retroactively nullify an originating process that complied with the rules at the material time, the Supreme Court reaffirmed the balance between procedural flexibility and fairness. The decision protects litigants from the injustice of having their rights defeated by subsequent amendments to the Rules, stabilises procedural expectations, and underscores that even the general retrospective nature of procedural rules is not absolute but must yield where justice requires.

DISPUTES PRACTICE

Government bid invitations are not promises, they are invitations to treat, not grounds for invoking the doctrine of legitimate expectation - **Orient Properties Development Company Limited v. Federal Min of Housing and Urban Development & Anor.** [2025] 10 NWLR (Pt. 1996) 307

Brief Facts

The matter originated from a public procurement dispute. Sometime in 2006, the 1st Respondent (Federal Ministry of Housing and Urban Development) placed an advert in several newspapers, inviting members of the public to submit proposals for the re-development of the Transit Village, Victoria Island, Lagos State.

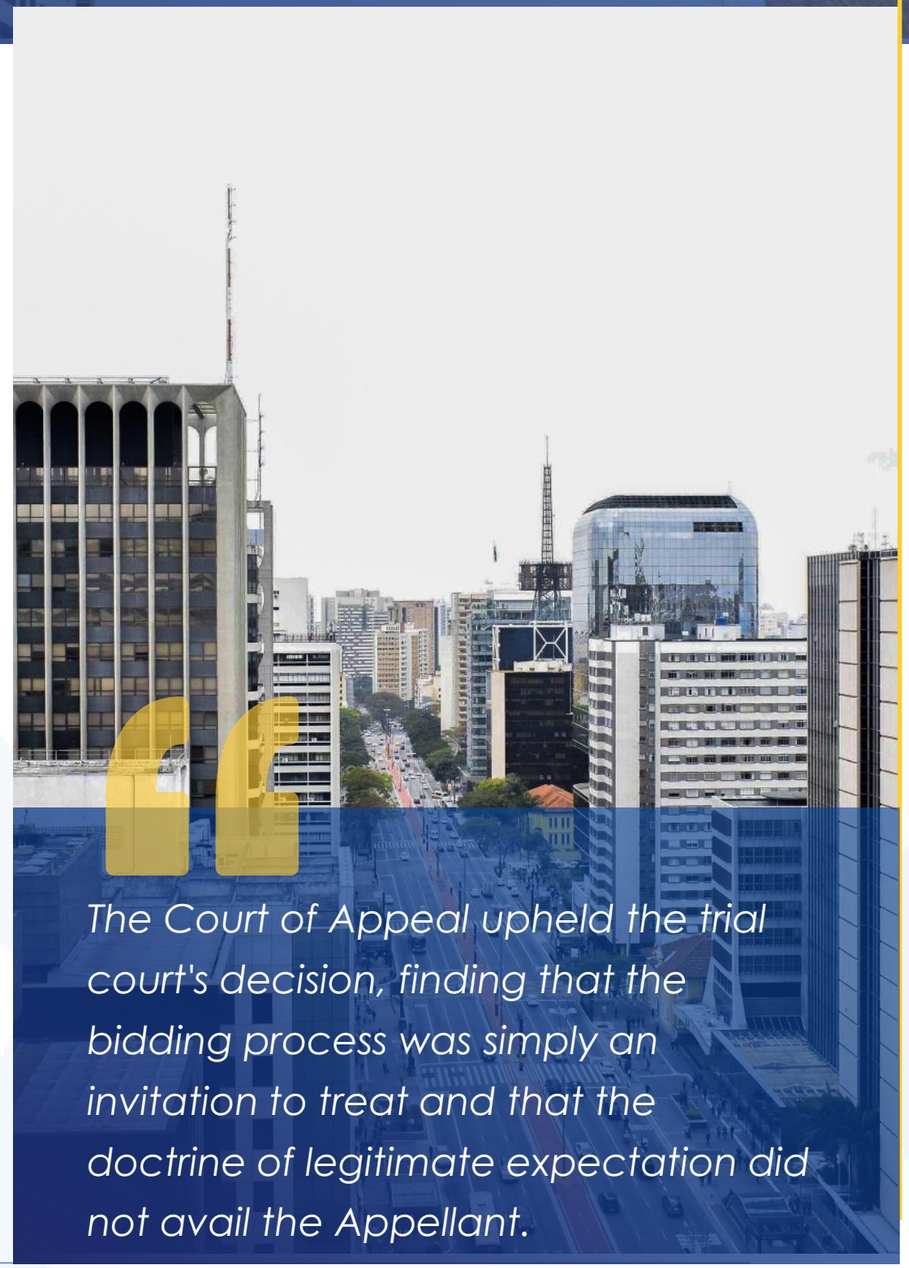
The Appellant (Orient Properties) submitted a bid and all necessary documents, which were presented to the Federal Executive Council (FEC) on 9.05.2007. However, the 1st Respondent eventually awarded the contract to the 2nd Respondent (Bank of Industry Ltd.). The 1st Respondent argued that it followed due process and forwarded the appellant's name to the FEC, but the FEC ultimately awarded the contract to the 2nd Respondent because the latter had more requisite experience.

The Appellant challenged the award at the Federal High Court (Trial Court), asserting that the award violated the principles and provisions of the Public Procurement Act (PPA), 2007, since the 2nd Respondent did not participate in the open competitive bidding. The Appellant sought a declaration that, as one of two preferred bidders, it was entitled to be awarded the contract alongside the other preferred bidder and sought an order directing the 1st Respondent to award the contract to them.

The Trial Court delivered judgment on 05.06.2015, holding that there was no valid contract and, consequently, no obligation on the 1st Respondent to award the contract to the Appellant, dismissing the action. The Court of Appeal upheld the trial court's decision, finding that the bidding process was simply an invitation to treat and that the doctrine of legitimate expectation did not avail the Appellant. The Appellant subsequently lodged a final appeal to the Supreme Court. The crux of the appeal at the Supreme Court was whether the Court of Appeal was right to have concluded that the appellant was not entitled to judgment on the grounds of the facts before the court as it relates to its entitlement to be awarded the contract.

Decision of the Court

The Supreme Court unanimously dismissed the appeal, affirming that the bidding exercise initiated by the Federal Ministry of Housing and Urban Development did not constitute an offer capable of acceptance, but merely an invitation to treat.



The Court of Appeal upheld the trial court's decision, finding that the bidding process was simply an invitation to treat and that the doctrine of legitimate expectation did not avail the Appellant.

The Court explained that such public advertisements are only preliminary steps inviting interested parties to make proposals; they do not amount to promises nor do they create enforceable obligations. In the absence of an offer and acceptance, no contract could be said to exist between the appellant and the government, and the appellant's bid could not, by itself, give rise to any legal rights under contract law. Since the process never ripened into a binding agreement, there was no contractual foundation on which the appellant could anchor its claim for declaratory or injunctive relief.

The Court also held that the Public Procurement Act, 2007 was inapplicable to the dispute. The bidding process began in 2006, before the Act came into force in June 2007, and applying the statute to antecedent events would amount to giving it a retrospective effect that is not permitted without express statutory language. In reiterating the principle articulated in earlier authorities, the Court emphasized that legislations, particularly legislations creating substantive rights and obligations do not operate retrospectively unless clearly intended and expressed by the legislature.

With respect to the appellant's reliance on the doctrine of legitimate expectation, the Court found no factual or legal basis for its invocation. The Ministry had made no specific promise or assurance to the appellant, whether through the advertisement, correspondence, or conduct, that could give rise to a substantive expectation that the contract would be awarded to it. The Supreme Court noted that only a formal letter of award could have created such an expectation. As no such representation existed, the doctrine could not be deployed to transform a non-binding bidding exercise into an enforceable entitlement.

In the end, the Court concluded that the appellant had failed to establish any entitlement to the reliefs sought and affirmed the decisions of the courts below.

Commentary

This decision provides a clear reaffirmation of first principles in public procurement law and the proper limits of administrative fairness doctrines. It underscores that competitive bidding processes, absent an express commitment, remain invitations to treat and cannot, without more, crystallise into enforceable obligations. By insisting on a demonstrable promise or assurance before legitimate expectation can arise, the Court drew an important boundary around government communications and preserved the distinction between procedural engagement and substantive entitlement.

The judgment also reinforces the doctrine of prospectivity in statutory interpretation. In declining to apply the Public Procurement Act, 2007 to a process initiated before its commencement, the Court restated that legislation conferring substantive rights or imposing substantive obligations cannot operate retroactively except where clearly intended. This approach promotes certainty within procurement frameworks and prevents retrospective imposition of standards on administrative bodies.

More broadly, the decision tempers the increasing tendency of bidders to rely on judicial review doctrines to contest unfavourable procurement outcomes. By clarifying that only a clear and unequivocal representation — typically in the form of a letter of award — can ground legitimate expectation, the Court ensures that public authorities retain the flexibility needed to evaluate competing bids while preserving fairness and transparency in the process. The alignment with established common law principles, including the English cases like Harvela Investments Ltd. v Royal Trust of Canada (CI) Ltd. [1985] UKHL 16 on invitations to treat and procurement processes, situates the decision within a coherent global jurisprudence while reflecting Nigeria's own statutory context.

There is no known law which relieves a party from any already existing indebtedness incurred from a valid contract, and party who elects to pursue damages for breach of contract remains liable for obligations incurred prior to the breach and cannot rely on the breach to avoid such liabilities - **Austin Laz Thermoplastic Industries Limited & Anor. v GT Bank Plc. [2025] 15 NWLR(PT. 2008) 235**

Where a party has received and enjoyed the benefits of a contract, such as funds disbursed under a credit facility, it remains bound to repay those sums, irrespective of any later breach by the counterparty.

Brief Facts

Austin Laz Thermoplastic Industries Limited (the 1st Appellant) sought an import finance facility of ₦20,000,000 and an overdraft line of ₦8,000,000 from its banker, Guarantee Trust Bank Plc. (the Respondent). The application, made through Dr. Austin Asimonye (the 2nd Appellant), was supported by a tripartite legal mortgage over a property valued at ₦44,500,000, with the 2nd Appellant providing a personal guarantee. The bank approved the request on 27.10.2008, and the 1st Appellant subsequently drew on the facility.

On 17.02.2009, however, the Respondent flagged the account and barred further access after discovering a significant discrepancy in the valuation of the mortgaged property, which had risen from ₦44,500,000 to ₦207,540,000. Aggrieved by this action, the Appellants commenced proceedings seeking declarations that the bank's approval of the facility and its prior deductions of charges precluded it from restricting access to the account. They also sought a declaration that the bank could no longer rely on the mortgage or the personal guarantee, having prevented the 1st Appellant from operating the account. The Respondent denied liability and counter-claimed for ₦18,294,808.33, being the sum it alleged remained outstanding.

The trial court found that the Respondent breached the contract by flagging the account and granted judgment in favour of the Appellants, awarding ₦300,000 in damages and dismissing the counter-claim. The Respondent thereafter appealed. The Court of Appeal agreed that the flagging of the account on the basis of a revised valuation was wrongful but held that the Respondent had nonetheless made disbursements totalling ₦17,210,315.04 to the Appellants before and after the restriction. It therefore affirmed the finding of breach and the damages award, but allowed the counter-claim in the reduced sum of ₦17,210,315.04.

Dissatisfied, the Appellants appealed to the Supreme Court. The sole issue distilled for determination was whether the Court of Appeal was right to have partly set aside the judgment of the trial court and to have entered judgment for the Respondent on its counter-claim in the sum of ₦17,210,315.04.

Decision of the Court

The Supreme Court unanimously dismissed the appeal, holding that no law absolves a party of an existing indebtedness arising from a valid and subsisting contract.

The Court explained that a breach of contract merely entitles the innocent party, if he elects to rescind, to be discharged from further obligations and to claim damages for the breach; it does not extinguish liabilities already incurred or benefits already received under the agreement. To permit a party to retain the benefit of funds advanced while escaping repayment on the basis of a subsequent breach would amount to double compensation, a result the law does not tolerate. On this reasoning, the Court affirmed the judgment of the Court of Appeal in its entirety and dismissed the appeal.

Commentary

The Supreme Court's decision embodies a principled application of foundational contract law. It affirms that a breach of contract does not extinguish obligations that have already accrued under a valid agreement. Where a party has received and enjoyed the benefits of a contract, such as funds disbursed under a credit facility, it remains bound to repay those sums, irrespective of any later breach by the counterparty. To permit otherwise would allow the innocent party to appropriate the benefits of the transaction while disclaiming its burdens, resulting in unjust enrichment and eroding commercial certainty.

The Court's reasoning also underscores the proper remedial framework in contract law. An innocent party who elects to rescind is relieved only from future obligations and may claim damages for the breach, but rescission does not operate retrospectively to wipe away debts already incurred. This distinction preserves fairness and prevents what the courts have consistently termed "double recovery," where a party both escapes repayment and receives compensation.

More broadly, the judgment reinforces stability in financial and commercial dealings. Credit markets depend on the enforceability of accrued obligations; lenders must have assurance that monies advanced under a valid facility remain recoverable even when disputes arise. Allowing borrowers to evade repayment because of a subsequent breach would undoubtedly destabilise commercial lending and undermine confidence in contractual structures. By upholding the sanctity of accrued obligations while preserving remedies for breach, the Supreme Court affirms a balanced and commercially coherent approach to contractual justice.

The Federal High Court has jurisdiction over simple contracts with a statutory flavour. **Central Bank of Nigeria v. Adani Mega System Limited** [CA/ABJ/1300/2023]

Brief Facts

The Respondent entered into a contract with the Central Bank of Nigeria (CBN) through the Technical Committee of the Comprehensive Import Supervision Scheme (CISS) for the provision of scanning infrastructure at Nigerian ports. The agreement, executed under a "Build, Operate and Own" model and backed by statutory instruments and a Bureau of Public Procurement certificate of no objection, required the Respondent to develop and operate the facilities.

A dispute arose when the CBN terminated the contract on grounds of alleged unauthorised outsourcing. The Respondent denied any breach, claiming it had performed substantial work and incurred significant costs, and further alleged that CBN unlawfully re-awarded the project to another entity. The Federal High Court, Abuja, granted part of the Respondent's reliefs. Dissatisfied, CBN appealed, contending primarily that the trial court lacked jurisdiction because the dispute emanated from a simple contract that ought to have been filed before the High Court of the Federal Capital Territory. One of the issues before the Court of Appeal was whether the Federal High Court had jurisdiction to entertain a suit founded on a simple contract in the circumstance.

The Federal High Court, Abuja, granted part of the Respondent's reliefs. Dissatisfied, CBN appealed, contending primarily that the trial court lacked jurisdiction because the dispute emanated from a simple contract that ought to have been filed before the High Court of the Federal Capital Territory.

Decision of the Court

In resolving the issue, the Court of Appeal upheld the decision of the Federal High Court, affirming that it had the requisite jurisdiction to hear the matter. The Court reasoned that, although the dispute arose from contractual relations, the underlying agreement was not an ordinary commercial contract but one governed by statutory instruments notably, the Pre-Shipment Inspection of Import Act and the Pre-Shipment Inspection of Export Act. These Acts, being enactments of the National Assembly, expressly vest jurisdiction in the Federal High Court through provisions such as Section 9(c) of the Import Act and Section 20(3) of the Export Act.

The Court further noted that the contractual framework, including the project engagement letter and the Bureau of Public Procurement's certificate of no objection, derived their authority from these statutory provisions.

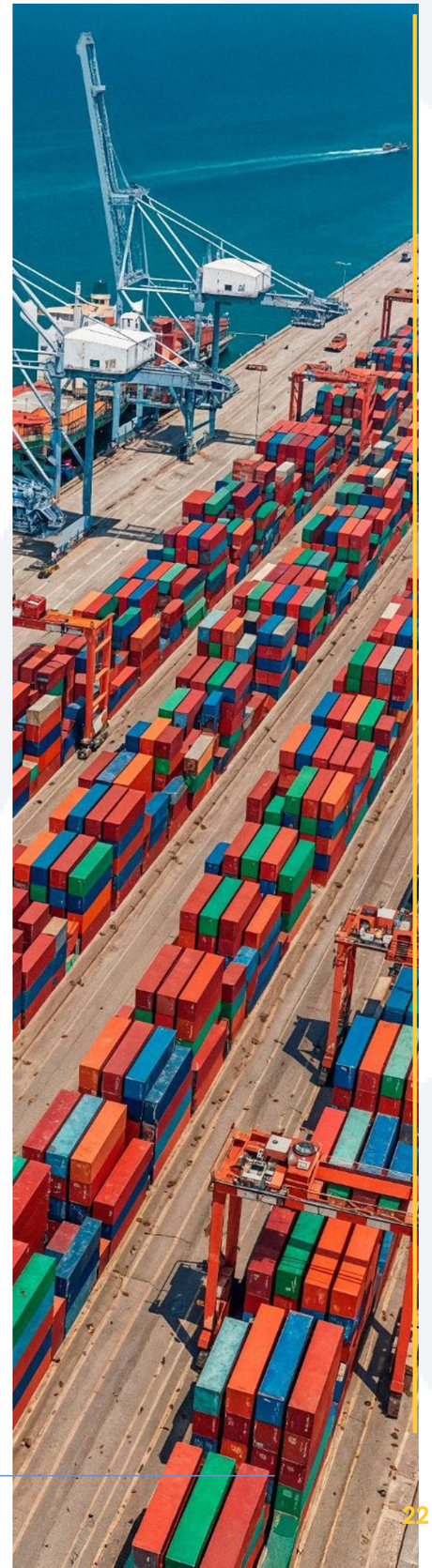
Accordingly, the Court rejected the Appellant's argument that the matter was a simple contractual dispute and reaffirmed that where legislation confers jurisdiction on the Federal High Court, such statutory mandate must be given full effect.

Brief comments

This decision provides important clarification on the scope of the Federal High Court's jurisdiction in matters that, although contractual in nature, are embedded within a statutory framework. The Court of Appeal reaffirmed that the prohibition against entertaining "simple contracts" at the Federal High Court is not rigid or absolute. Where the contract in dispute derives its validity, operational structure, or enforcement mechanisms from an Act of the National Assembly, the matter acquires a statutory character that brings it squarely within the court's constitutional jurisdiction under section 251(1) and section 252(2) of the 1999 Constitution.

In recognising that the Pre-Shipment Inspection of Import and Export Acts regulate the contractual architecture between the parties, the Court emphasized that such agreements cannot be treated as ordinary private contracts. Instead, they carry statutory flavour because the rights, obligations, and oversight mechanisms arise from legislation. The involvement of statutory instruments, regulatory approvals, and public procurement controls further reinforced the public-law dimension of the dispute.

The judgment is instructive for public-private partnerships, concession arrangements, and procurement-driven engagements. It confirms that jurisdictional objections premised on the "simple contract" doctrine may not succeed where the legislature has clearly vested jurisdiction in the Federal High Court or where the contract is inseparably linked to statutory provisions of Acts of the National Assembly.

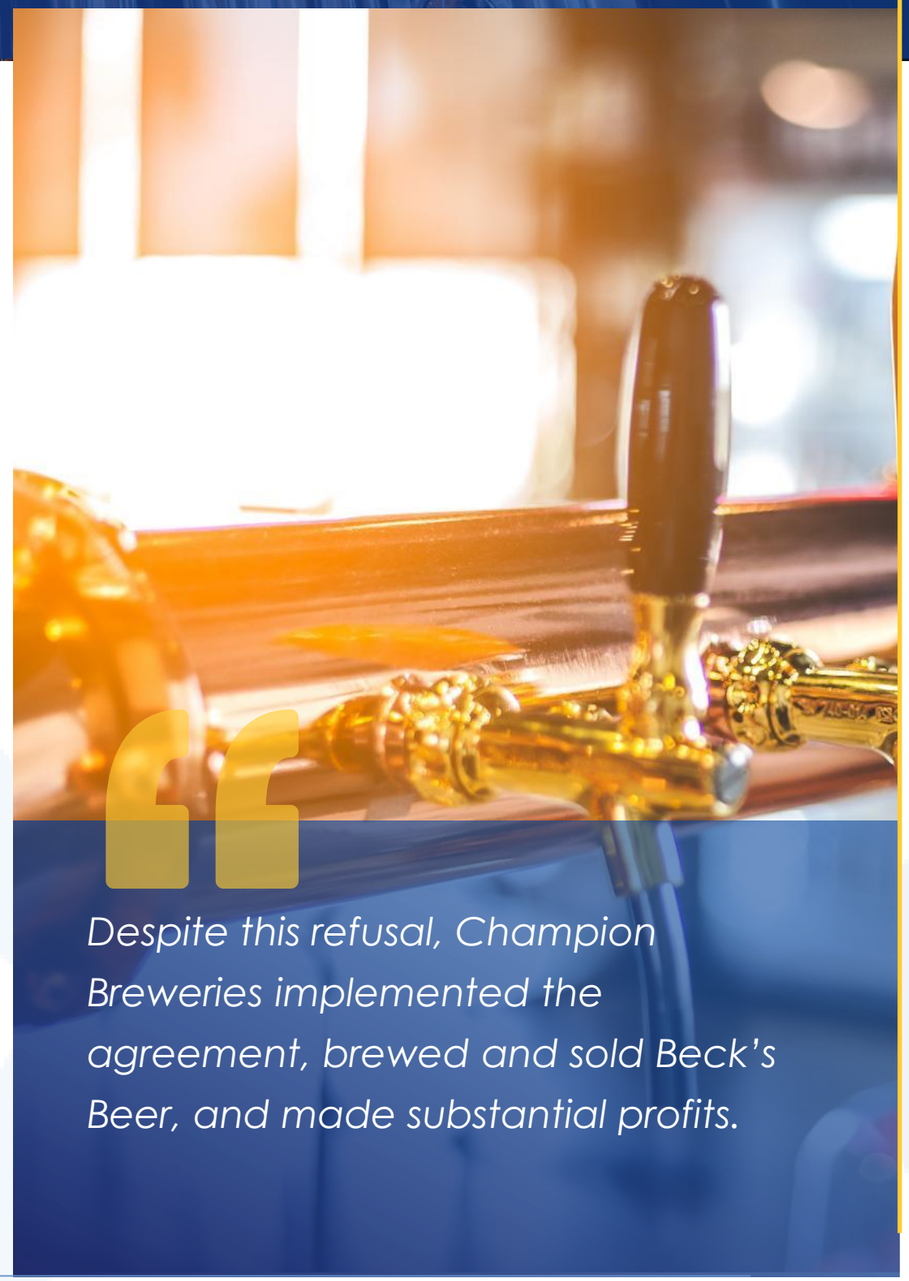


Failing to register an agreement with NOTAP (within the timeframe prescribed) does not render the contract illegal, null, or void or contrary to public policy. It simply makes the contract non-registrable under the NOTAP Act. **Champion Breweries Plc v. Brauerei Beck GmbH & Co. KG** [2025] LPELR-81422(CA)

Brief Facts

Champion Breweries Plc entered a Manufacturing, Distribution, Technology and Trademark Licence Agreement with Brauerei Beck GmbH & Co. KG on 24.10.2005 for the production of Beck's Beer in Nigeria. Although the agreement expressly required registration with NOTAP within sixty days, Champion Breweries only applied eighteen months later. NOTAP rejected the registration, partly because the agreement contained a foreign arbitration clause (Geneva, Switzerland) prohibited under Section 6(2)(r) of the NOTAP Act unless approved by the Director General. Despite this refusal, Champion Breweries implemented the agreement, brewed and sold Beck's Beer, and made substantial profits. However, when required to pay royalties, it claimed the agreement was illegal due to non-registration. Brauerei Beck terminated the agreement on 28.11.2008 and commenced ICC arbitration for unpaid royalties. Champion Breweries sought court orders to halt the arbitration, but Brauerei Beck proceeded and obtained a final award in 01.2011.

When Brauerei Beck sought enforcement, the Federal High Court Lagos upheld the award, holding that Champion Breweries could not deny the agreement's validity after benefiting from it. Champion Breweries, thereafter, appealed to the Court of Appeal. Although six issues were formulated for the determination of the appeal, the focus of this review is whether non-registration of technology transfer agreements under the NOTAP Act renders such agreement illegal, void, or unenforceable.



Despite this refusal, Champion Breweries implemented the agreement, brewed and sold Beck's Beer, and made substantial profits.

Decision of the Court

The Court of Appeal unanimously held that non-registration under the NOTAP Act does not render a technology transfer agreement illegal, null, void, or unenforceable. Applying the literal rule, the Court interpreted Sections 6(2)(r) and 7 of the Act as imposing restrictions on registration and foreign remittances and not as invalidating unregistered agreements.

The Court observed that: (a) Section 6(2)(r) only prohibits registration where the agreement requires foreign dispute resolution without prior approval. Section 7 merely bars payment of royalties to foreign parties through Nigerian banks without a registration certificate.

Because the Act contains no penal provision nullifying non-registered agreements, the Court held that the agreement remained valid and enforceable between the parties, though the transferee cannot lawfully remit royalties abroad through Nigerian financial institutions.

The Court further held that Champion Breweries, having implemented and benefited from the agreement, was estopped from claiming illegality. It upheld enforcement of the arbitral award and dismissed the appeal.

Brief Comments

The Champion Breweries decision provides a clear effect of non-registration under the NOTAP Act. Applying the literal rule, the Court held that failure to register a technology transfer agreement within the statutory timeframe does not render the contract illegal, null, or void. Rather, the statutory consequence is limited to non-registrability and the inability to process foreign remittances through Nigerian financial institutions without a NOTAP certificate. This interpretation is consistent with the structure of the Act, which regulates registration and foreign exchange remittances but contains no express provision nullifying non-registered agreements.

The Court also relied on estoppel, holding that a party who has fully implemented and profited from a contract cannot later rely on its own non-compliance with a statutory formality to escape liability. This reinforces long-standing principles preventing parties from taking inconsistent positions to avoid contractual obligations.

This decision stands in contrast to the Court of Appeal's earlier position **in Limak A.S. v. Sahelian Energy** [2021] LPELR-58182(CA), where the Court adopted a purposive approach and held that failure to register a technology transfer agreement rendered it unenforceable, given the protective intent of the NOTAP Act. By comparison, Champion Breweries takes a narrower, text-focused view, treating non-registration as a regulatory breach with financial consequences rather than as a defect that voids the contract.

A government circular must clearly promise a benefit to trigger the application of the principle of legitimate expectation - **Halliburton West Africa Limited v. Federal Board of Inland Revenue** [2025] 10 NWLR (Pt. 1996) 307

… The Supreme Court noted that nothing in the circular stated or implied that the costs reimbursed to the Nigerian subsidiary - the "recharges", should be excluded from the turnover attributable to Nigerian operations.

Brief Facts

The Appellant is a non-resident foreign company incorporated in the Cayman Islands, operating in Nigeria through its Nigerian subsidiary, Halliburton Energy Services Nigeria Limited. The subsidiary acted as the Appellant's agent, securing and concluding contracts on its behalf. The arrangement required the Appellant to reimburse the subsidiary for 100% of operating expenses incurred, plus 4% of the Appellant's revenue, referred to as "recharges".

The Appellant paid tax on the income earned but never filed annual returns of its audited accounts as required by Section 41(1) of the Companies Income Tax Act (CITA). Instead, it filed self-assessment tax returns based on turnover.

In 2002, the Respondent (FBIR) conducted a tax audit that revealed the Appellant's self-assessment tax returns for 1996, 1997, 1998, and 1999 had excluded certain income, specifically the "recharges" (fees and costs) paid back to its subsidiary. The FBIR subsequently issued additional assessment notices totalling USD6,927,248.

The Appellant challenged the additional assessment up to the Supreme Court, arguing, among other things, that the recharges should be excluded from the turnover tax assessment, citing the FBIR's usual practice which it claimed was restated in Public Notice Circular No. 9302 (Exhibit S). The Appellant sought to invoke the principle of legitimate expectation, arguing that they were led to believe recharges were deductible.

In determining the appeal, the Supreme Court considered whether the Court of Appeal was right in holding that the appellant was liable to additional taxation on the ground of undeclared income and under Section 26 of the Companies Income Tax Management Act (CITA); Whether the Court of Appeal was correct to have held that Exhibit S did not qualify as subsidiary legislation and whether the principle of legitimate expectation was applicable to the circumstances of the case.

Decision of the Court

The Supreme Court unanimously dismissed the appeal and affirmed the validity of the additional tax assessments issued under section 26(1) of the CITA, which empowers the tax authority to assess a taxpayer on a percentage-of-turnover basis where true assessable profits cannot be readily ascertained. In resolving the central question raised by the appellant, the Court addressed the reliance placed on the doctrine of legitimate expectation and on Information Circular No. 9302 (Exhibit S).

The Court held that the circular could not sustain any claim of legitimate expectation. It explained that the purpose of Exhibit S was simply to outline, in general terms, how Nigerian tax laws apply to non-resident companies and to describe their liability and payment procedures.

The Court therefore rejected the appellant's contention that Exhibit S contained a representation that recharges were an allowable deduction in the computation of deemed profits.

Since the circular made no such promise, the Court concluded that the appellant could not legitimately expect the tax authority to treat recharges as deductible. It added that Exhibit S did not qualify as subsidiary legislation: the power to make binding rules or regulations must be expressly granted by statute, and no such authority existed under CITA for the issuance of that circular. The document therefore lacked the normative force required to ground any substantive or procedural expectation.

Commentary

This decision sharpens the contours of legitimate expectation within Nigerian administrative and fiscal law. It reiterates that the doctrine cannot be activated by broad policy statements or explanatory guidance, but only by a clear, unequivocal promise made by a public authority. By holding that Circular No. 9302 offered no assurance capable of grounding an expectation, the Supreme Court reaffirmed that legitimate expectation is a doctrine of precision, not inference. Taxpayers cannot rely on administrative commentary to secure benefits that are neither expressly granted nor supported by statute.

Notably, it also echoes comparative principles articulated in **R v North and East Devon Health Authority, ex-parte Coughlan** [2001] QB 213, where the UK Court of Appeal distinguished between binding governmental promises and broadly framed policy guidance. Against that framework, the Court's conclusion in Halliburton is unsurprising: explanatory circulars lacking normative force cannot create enforceable expectations, particularly in a tax regime governed strictly by statute.

Overall, the judgment strengthens doctrinal discipline by ensuring that legitimate expectation remains anchored to clear governmental commitments rather than administrative convenience or taxpayer interpretation. This enhances certainty in tax administration and preserves the necessary boundary between statutory obligations and non-binding regulatory guidance.

Enforcement of fundamental rights under section 36(1) of the 1999 Constitution is confined strictly to proceedings before courts or tribunals established by law and does not extend to departmental or quasi-judicial bodies – **Abalaka v. Minister of Health & Ors** [2025] LPELR-81491(SC)

Brief Facts

The Appellant asserted that he had discovered a therapeutic breakthrough for the treatment of HIV. Following this public claim, on 22.05.2000, the Medical and Dental Practitioners Investigating Panel (the 3rd Respondent) issued him a letter inviting him to appear before it to answer allegations of professional misconduct arising from his HIV treatment assertions.

In response, the Appellant filed an ex-parte application at the FCT High Court to enforce his fundamental rights, arguing that the 3rd Respondent could not act as accuser, prosecutor, and judge in violation of fair hearing. After the High Court struck out the case for lack of jurisdiction, he reinstituted a fresh claim at the Federal High Court, which dismissed it, holding that the reliefs sought were not within the scope of Chapter IV of the 1999 Constitution. The Court of Appeal upheld the dismissal, leading to a final appeal to the Supreme Court.

The recondite issue before the Supreme Court was whether the right to fair hearing under section 36(1) of the 1999 Constitution is limited solely to proceedings before courts or tribunals established by law, or whether it also extends to the actions of departmental or quasi-judicial bodies such as the investigating Panel.

The Court stressed that Section 36(1) It applies only to proceedings before judicial bodies established by law, not to quasi-judicial or departmental panels set up to investigate or hear internal matters.

Decision of the Court

In resolving the issue, the Supreme Court explained that although the Appellant's complaint – that the Medical and Dental Practitioners Investigating Panel acted as "accuser, prosecutor and judge in its own cause", was a recognizable allegation of breach of the rules of natural justice, that is not the same as a breach of the fundamental right to fair hearing guaranteed by section 36(1). The Court stressed that Section 36(1) It applies only to proceedings before judicial bodies established by law, not to quasi-judicial or departmental panels set up to investigate or hear internal matters. Accordingly, any grievance about lack of impartiality or natural justice by such departmental or quasi-judicial panels cannot be enforced as a fundamental right under section 36(1) through the Fundamental Rights (Enforcement Procedure) Rules (FREP Rules).Instead, the proper remedy is to seek judicial review – for example, by writ of certiorari, prohibition, declaration etc.

Commentary

This decision provides an important doctrinal clarification on the limits of fundamental rights enforcement under the 1999 Constitution. By anchoring its reasoning on the precise wording of section 36(1), the Supreme Court reaffirmed that the constitutional guarantee of fair hearing applies strictly to proceedings before "courts or tribunals established by law", and not to departmental, investigative, or quasi-judicial panels. The ruling thus draws a clear distinction between a breach of constitutional fair hearing and a breach of natural justice simpliciter.

The Court's approach preserves the structural integrity of the Fundamental Rights (Enforcement Procedure) Rules by ensuring that they are not deployed to challenge every administrative or internal disciplinary process. Instead, grievances arising from the conduct of panels or committees that are not "courts or tribunals established by law" fall within the domain of ordinary judicial review, where remedies such as certiorari, prohibition, and declaratory relief are more appropriate.

In doing so, the Court safeguards the constitutional framework from undue expansion and prevents litigants from collapsing all claims of procedural unfairness into Chapter IV. The judgment therefore reinforces the boundary between true constitutional infractions and ordinary administrative law complaints, ensuring that the specialised procedure for enforcing fundamental rights remains reserved for matters that squarely fall within its constitutional contemplation.

Constitutional Adjudication in Times of Crisis: Exclusive Supreme Court's jurisdiction, locus standi Thresholds, and the Legal Architecture of Emergency Powers – **Rivers State Emergency Matters Incorporated Trustees of Rivsbridge Peace Initiative v. President of the Federal Republic of Nigeria & 5 Ors.** [2025] FHC/PH/CS/43/2025

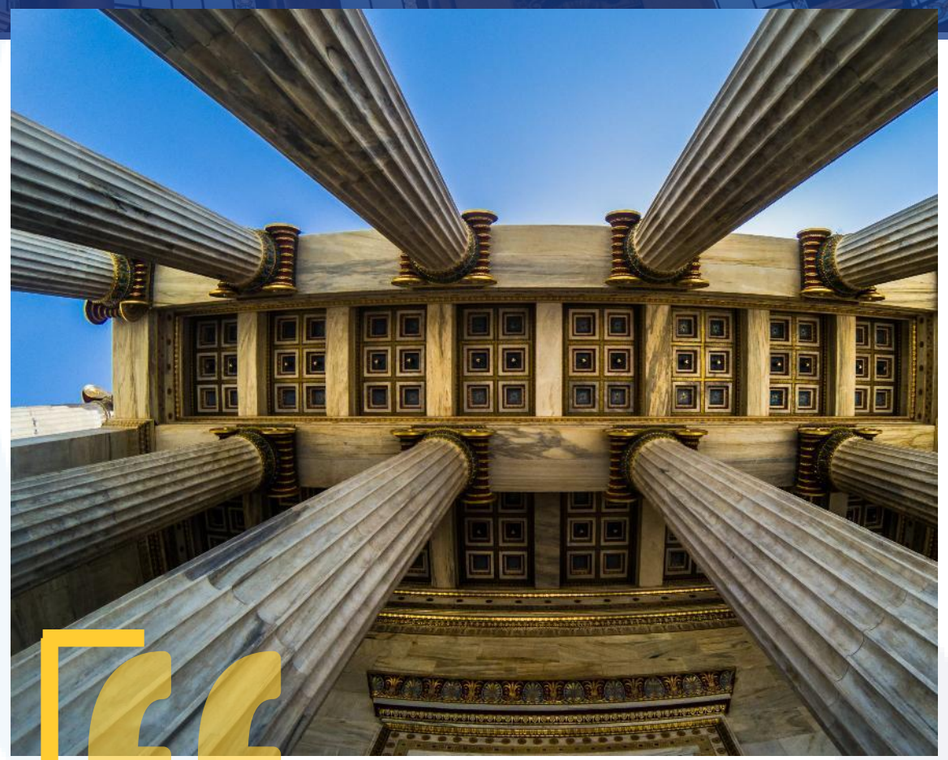
Brief Facts

The Incorporated Trustees of Rivsbridge Peace Initiative (the Claimant) filed an Originating Summons on 27.03.2025. The Claimant asked the Court to determine whether the Federal Government and its agencies (1st–5th Defendants) could lawfully release or pay monies belonging to Rivers State from the Consolidated Revenue Fund to the 6th Defendant, Vice Admiral Ibok-Ete Ekwe Ibas (Rtd.), appointed Sole Administrator of Rivers State, without complying with Sections 120, 121, and 287(1) of the 1999 Constitution, and despite a subsisting Supreme Court order in Rivers State House of Assembly & Ors v. Government of Rivers State [2025] LPELR-80539 (SC).

The 6th Defendant filed a Notice of Preliminary Objection on 12.05.2025, contending that the Court lacked jurisdiction under the Emergency Powers (Jurisdiction) Act, 1962, because the suit arose from the President's Proclamation of a State of Emergency.

Meanwhile, the Claimant filed a Motion on Notice seeking to transfer the matter back to the Port Harcourt Division, contending that the earlier administrative transfer to Abuja at the written request of the Attorney General of the Federation was improper, not communicated to them, breached their right to fair hearing, and amounted to forum shopping. The Claimant also argued that the Chief Judge's administrative act was questionable, having already lodged a written complaint with the Chief Judge.

The 6th Defendant countered that the Motion was an abuse of court process because the Claimant had already petitioned the Chief Judge on the same issue and further maintained that the Chief Judge's statutory power to transfer cases is administrative, discretionary, and not subject to challenge in this manner.



The Claimant also argued that the Chief Judge's administrative act was questionable, having already lodged a written complaint with the Chief Judge.

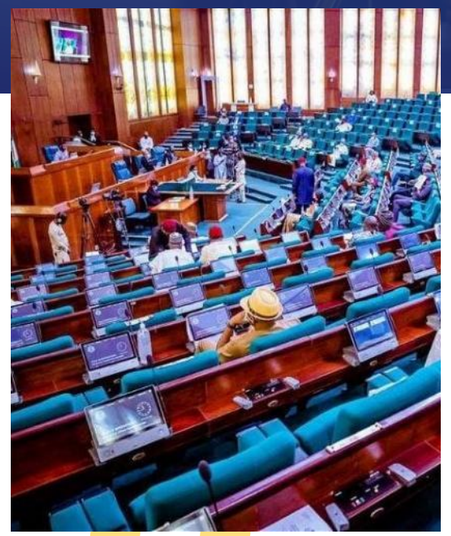
Decision of the Court

In its ruling delivered on 02.10.2025, the Federal High Court held that it lacked jurisdiction to entertain the substantive suit. The Court found that the claims were rooted in, and inseparable from, the President's Proclamation of a State of Emergency in Rivers State. By virtue of Section 1 of the Emergency Powers (Jurisdiction) Act, 1962, only the Supreme Court has exclusive original jurisdiction over any question concerning the validity or effect of a proclamation of emergency. The Federal High Court was therefore divested of competence.

On the issue of transfer, the Court held that a court lacking jurisdiction over a matter cannot transfer it to another judicial division. The power to transfer lies solely with the Chief Judge as an administrative function, and the manner in which it was exercised cannot properly be challenged through a Motion on Notice.

Having found that the Court lacked subject matter jurisdiction and that the originating process was incompetent, the Court upheld the Preliminary Objection, declined jurisdiction, and declared the Originating Summons and all accompanying processes void ab initio.

Pilex Centre for Civic Education Initiative & Anor. v The Administrator, Rivers State [2025] FHC/PH/CS/46/2025



Any determination of the Administrator's powers would require the Court to examine the validity and scope of the proclamation.

Brief Facts

The Applicants, an NGO and a private individual, instituted an Originating Summons on 28.03.2025 challenging the plan of the Administrator of Rivers State to appoint Sole Administrators for the twenty-three local government councils in Rivers State. They contended that such an action was unconstitutional and violated Section 7 of the Constitution.

In response, the Administrator (the Respondent) filed a Preliminary Objection asserting that the suit was incompetent because it arose from the Proclamation of a State of Emergency in Rivers State. He argued that, by virtue of Section 1(1) and (2) of the Emergency Powers (Jurisdiction) Act, 1962, only the Supreme Court has original jurisdiction over matters connected to the validity, scope, or effect of an emergency proclamation.

He further argued that the Applicants lacked locus standi, as they showed no specific injury beyond that of the general public, and that a void originating process could not activate the jurisdiction of any court.

Decision of the Court

In its ruling of 02.10.2025, the Federal High Court upheld the Preliminary Objection. The Court held that the substance of the claim was inseparable from the President's Proclamation of a State of Emergency in Rivers State pursuant to Section 305 of the Constitution.

Any determination of the Administrator's powers would require the Court to examine the validity and scope of the proclamation. The Emergency Powers (Jurisdiction) Act, 1962, however, vests exclusive original jurisdiction over such matters in the Supreme Court, thereby divesting the Federal High Court of competence.

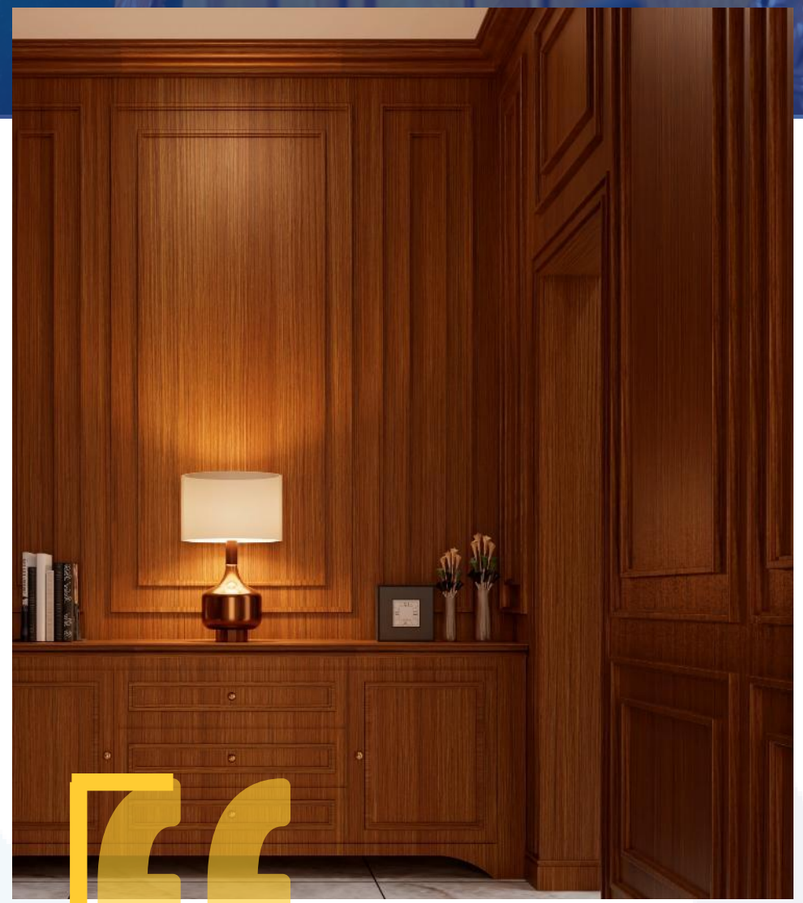
The Court nonetheless, proceeded to hold that the Applicants lacked locus standi. Their interest as residents and an NGO were insufficient to establish the personal and peculiar injury required to initiate a public interest action. Without a competent claimant and without jurisdiction over the subject matter, the originating summons was void ab initio. The suit was accordingly dismissed.

Belema Briggs & 4 Ors. v. The President, Federal Republic of Nigeria & 3 Ors. (2025) FHC/PH/CS/51/2025

Brief Facts

The Plaintiffs, Belema Briggs & 4 Ors. instituted this action via an Originating Summons filed on 2.04.2025 before the Federal High Court. The suit challenged the Proclamation of a State of Emergency in Rivers State by the 1st Defendant, the President of the Federal Republic of Nigeria, and the appointment of the 3rd Defendant, Vice Admiral Ibokette Ibas (Rtd.), as the Sole Administrator of Rivers State. The Plaintiffs essentially sought to nullify the suspension of the Elected Executive Arm of Government and prevent the appointment of the Sole Administrator.

The Plaintiffs prayed the Court to determine several questions regarding the constitutionality of the President's actions under Sections 1, 4, 5, 11, 180, 188, and 305 of the 1999 Constitution. The Defendants vehemently opposed the suit, primarily arguing that the Federal High Court lacked jurisdiction to hear the matter. The central issue before the Court was whether it was vested with the Jurisdiction to entertain the Suit.



The Defendants vehemently opposed the suit, primarily arguing that the Federal High Court lacked jurisdiction to hear the matter. The central issue before the Court was whether it was vested with the Jurisdiction to entertain the Suit.

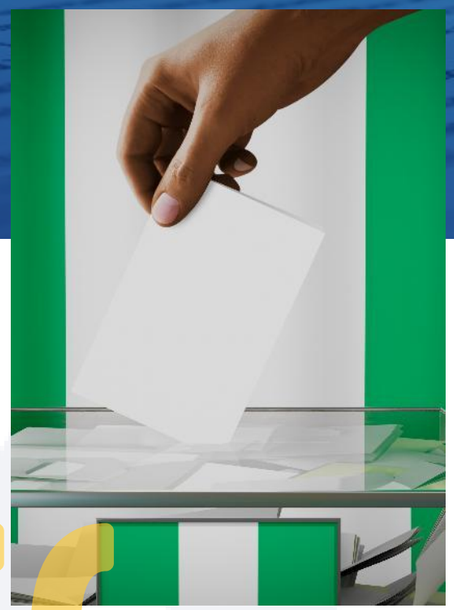
Decision of the Court

The Federal High Court delivered the judgment on 2.10.2025. On jurisdiction, the Court held that the substratum of the Plaintiffs' claim was a challenge to the Proclamation of a State of Emergency by the President under Section 305 of the Constitution.

The Court relied on the provisions of Section 1(1) and (2) of the Emergency Powers (Jurisdiction) Act, 1962, which vests exclusive original jurisdiction to inquire into questions regarding the validity of any Proclamation of a State of Emergency in the Federal Supreme Court (now the Supreme Court of Nigeria). The Court emphasized that where a statute vests jurisdiction exclusively in a superior court, all other courts are divested of competence.

In conclusion, the Court found that the Federal High Court lacked the requisite subject matter jurisdiction to hear the suit. The Court declined jurisdiction and accordingly dismissed the suit, declaring the entire Originating Summons to be void ab initio.

Williams Abayomi Stanley Esq. v. The President of the Federal Republic of Nigeria & 4 Ors. [2025] PHC/2792/CS/2025



Brief Facts

The Claimant, Williams Abayomi Stanley Esq., commenced this action by Originating Summons before the Rivers State High Court seeking judicial clarification on the validity of the Local Government Council Elections scheduled for August 2025 in Rivers State. His challenge centred on the composition and appointment of the members of the Rivers State Independent Electoral Commission (RSIEC), the 4th Defendant. He contended that RSIEC was not properly constituted in accordance with the Constitution, and on that basis sought to restrain the conduct of the forthcoming elections.

The Defendants included the President of the Federal Republic of Nigeria, the Attorney General of the Federation, the Chairman of RSIEC, RSIEC itself, and the Peoples Democratic Party (PDP), which was joined as the 5th Defendant by an order of court on 10.09.2025. The PDP strongly opposed the suit, contending that the Claimant lacked locus standi because he was not a registered voter, a candidate in the elections, or a political party, and therefore had no legal capacity to challenge the electoral process or the composition of RSIEC.

Decision of the Court

The Court held that the Claimant lacked locus standi, rendering the entire Originating Summons incompetent. The Court emphasised that locus standi denotes the legal right to bring an action or to be heard in a judicial forum, a threshold requirement for the invocation of judicial power. The Claimant, relying merely on his status as a legal practitioner and an indigene of Rivers State, failed to demonstrate any personal, direct, or special injury he had suffered or would suffer as a result of the constitution of RSIEC or the conduct of the scheduled elections. His interest was general and indistinguishable from that of the wider public.

The Court therefore described the Claimant as a “busybody” and a “meddlesome interloper.” Without a competent plaintiff to activate its jurisdiction, the Court itself was incompetent to proceed further. The suit was accordingly struck out or dismissed, in line with the submissions of the 5th Defendant.

> ***He contended that RSIEC was not properly constituted in accordance with the Constitution, and on that basis sought to restrain the conduct of the forthcoming elections.***

Samuel T.O. Amatonjie Esq. v. President of the Federal Republic of Nigeria & 5 Ors. (2025) FHC/PH/CS/53/2025

...the Plaintiff asked the Court to determine whether the numerical majority for a two-thirds majority of all members of the National Assembly could be obtained through a roll-call vote or must be obtained via an actual physical meeting.

Brief Facts

The Plaintiff, Samuel T.O. Amatonjie Esq., commenced this action via an Originating Summons filed on 9.04.2025, before the Federal High Court. The suit primarily sought a judicial interpretation and determination of the constitutional requirement for the National Assembly (3rd Defendant) to extend a Proclamation of a State of Emergency under Section 305(6)(b) of the 1999 Constitution. Specifically, the Plaintiff asked the Court to determine whether the numerical majority for a two-thirds majority of all members of the National Assembly could be obtained through a roll-call vote or must be obtained via an actual physical meeting.

The suit essentially sought to challenge the legality of the Sole Administrator of Rivers State (6th Defendant) continuing in office based on the National Assembly's approach in affirming the State of Emergency Proclamation. The Defendants, particularly the 6th Defendant, filed a Notice of Preliminary Objection challenging the Court's jurisdiction, arguing that the substratum of the matter falls exclusively under the Supreme Court's original jurisdiction.

Decision of the Court

The Federal High Court equally held that it lacked jurisdiction because the Plaintiff's challenge to the National Assembly's approval process was, in substance, an attack on the validity of the State of Emergency itself. Since section 1 of the Emergency Powers (Jurisdiction) Act, 1962 vests exclusive original jurisdiction in the Supreme Court over such questions, the suit was caught by the Act. The Court therefore upheld the objection and declined jurisdiction. It dismissed the suit, declaring the Originating Summons to be void ab initio.

Farah Dagogo v. President of the Federal Republic of Nigeria & Ors. FHC/PH/CS/50/2025

Brief Facts

The Plaintiff, Hon. Farah Dagogo, a former member of the House of Representatives, instituted this action challenging the constitutional validity of the President's declaration of a State of Emergency in Rivers State. He contended that the President exceeded his constitutional mandate by suspending democratically elected officials and appointing Vice Admiral Ibok-Ete Ibas (Rtd.) as Sole Administrator. He also questioned the procedure adopted by the National Assembly in approving the Proclamation. Although the suit was initially filed in the Port Harcourt Division of the Federal High Court, it was transferred to Abuja following administrative directives. At the hearing, the Defendants argued that the Federal High Court lacked competence to entertain the matter.

Decision of the Court

The Court held that by virtue of the Emergency Powers (Jurisdiction) Act, 1962, questions concerning the validity or effect of a presidential proclamation of a state of emergency fall within the Supreme Court's exclusive original jurisdiction. Citing **Williams v. Majekodunmi** [1962] 1 All NLR 327 and **Plateau State v. A.-G., Federation** [2006] 3 NWLR (Pt. 968) 346, the Court emphasised that actions connected to a state of emergency require appropriate consent from the relevant authorities, consent which the Plaintiff did not obtain. It further held that the Plaintiff lacked locus standi, having shown no personal or direct legal injury, and therefore lacked capacity to activate the Court's judicial authority. The originating process was accordingly declared void ab initio.

On the merits, the Court nonetheless clarified that the President acted within his constitutional powers under section 305 of the 1999 Constitution. The declaration of a state of emergency, the temporary suspension of elected officials, and the appointment of a Sole Administrator were justified by a clear and present danger of public disorder, as confirmed in Rivers **State House of Assembly & Anor v. Government of Rivers State** [2025] LPELR-80539 (SC). The Court held that the measures taken were temporary exigencies necessary to prevent a governmental vacuum, not removals from office. On the approval procedure adopted by the National Assembly, the Court held that section 305 does not prescribe a specific voting method; the constitutional threshold was met and the approval was valid. Reinforcing the principle in **Okonjo-Iweala v. Fawehinmi** [2025] LPELR-80384 (SC), it noted that only persons with a direct legal interest may challenge executive action. All issues were resolved against the Plaintiff, and the suit was dismissed with costs of ₦2,000,000 awarded to each Defendant.

> ***...the Court emphasised that actions connected to a state of emergency require appropriate consent from the relevant authorities, consent which the Plaintiff did not obtain.***

Commentary on the Emergency Matters

The reviewed decisions collectively reinforce the strict jurisdictional limits placed on courts in matters arising from presidential proclamations of a state of emergency. Across all the cases, the courts maintained that any question touching on the validity, scope, or effect of such proclamations falls exclusively within the Supreme Court's original jurisdiction under the Emergency Powers (Jurisdiction) Act, 1962. Proceedings commenced before any other court are therefore void ab initio, underscoring the fundamental principle that jurisdiction is the bedrock of judicial authority.

A consistent thread through these decisions is the rigorous enforcement of locus standi. Claimants must demonstrate a personal, direct legal interest; broad civic concern or generalized public interest is insufficient. This threshold prevents speculative litigation from destabilising constitutional structures during periods requiring heightened executive coordination and ensures that only parties with a real stake may invoke judicial scrutiny over emergency powers.

Substantively, the rulings reflect a recognition of the breadth of presidential powers under a state of emergency. The suspension of elected officials and the appointment of administrators were in some of the cases, treated as lawful consequences of the proclamation, undertaken to address serious threats to public order. The courts distinguished between suspension and removal, emphasising that emergency measures are temporary responses aimed at preventing governance paralysis.

However, the Federal High Court and the Rivers State High Court were clear that only the Supreme Court is constitutionally empowered to determine the validity or scope of a presidential emergency proclamation under section 305 of the Constitution. As such, the merits of these questions beckon for determination by the apex court, and it is noteworthy that a similar challenge has already been heard and judgment reserved by the Supreme Court in **AG Adamawa & Ors v. AG Federation & Ors** SC/CV/329/2025 an offshoot of the same Rivers State emergency proclamation, with Olaniwun Ajayi LP as one of the law firms engaged by the Federal Government in the matter.

LAWS, PROCEDURE AND PRACTICE

Review of The Nigerian Insurance Industry Reform Act 2025

On 05.08.2025, Nigeria took a decisive step toward modernising its insurance landscape with the passage of the Nigerian Insurance Industry Reform Act 2025 ("**NIIRA**" or the "**Act**"). The Act repealed and replaced previous insurance legislations (x) Insurance Act 2004 (the "**IA 2004**"); (y) Motor Vehicles (Third Party) Act 2004; (z) Marine Insurance Act 2004; and (xx) National Insurance Cooperation of Nigeria Act 2004 that had governed the sector for over two decades. The Act represents the most comprehensive overhaul of Nigeria's insurance regulation in the past two decades, bringing the sector up to speed with today's realities. The amendments are succinctly analysed below.

Minimum Capital Requirements[1]

The Act now establishes the highest thresholds to date at ₦10 billion for life insurance, ₦15 billion for non-life insurance, and ₦35 billion for reinsurers.

These thresholds reinforce the Federal Government's (**FG**) intent to stabilise the industry, protect policyholders, and prepare Nigerian insurers for a more competitive, risk-based regime.

Investment of Minimum Capital to be Deposited with CBN

The Act maintains the requirement for insurers to deposit part of their capital with the Central Bank of Nigeria but strengthens protections. New insurers must deposit 50% of their minimum capital before licensing, with 80% plus interest returned within 60 days of registration.[2]

Existing insurers continue depositing 10%.[3] Deposits are now protected from garnishee proceedings[4], invested in secure federal instruments, and income is remitted bi-annually. The timeframe for replenishing withdrawals is extended to 60 days to enhance compliance while minimizing operational disruption.

Classification

The Act reclassifies insurance from "life and general" to "life and non-life" to modernise market structure.[5] Life insurance now explicitly recognises annuities, to reflect global trends in retirement planning, while non-life insurance incorporates agricultural cover. Energy replaces the narrower "oil and gas" label[6], recognising power and broader infrastructure risks.

Holding Company Structure

The Act formally permits insurers, similar to banks and other financial institutions, to operate within holding company structures.[7] The Act empowers the National Insurance Commission (**NAICOM**) to issue regulations on investments, subsidiaries, and intra-group arrangements, while keeping supervisory focus on the insurance arm's solvency and compliance.

1. *NIIRA 2025, section 15.*
2. NIIRA 2025, section 16
3. NIIRA 2025, section 16(3).
4. NIIRA 2025, section 16(6).
5. NIIRA 2025, section 3.
6. NIIRA 2025, section 39(e).
7. NIIRA 2025, section 11.

Appointment of Officers

The Act mandates insurers to secure prior written approval from the Commission before appointing any principal officer,[8] not just the Chief Executive Officer as provided in IA 2004. This covers the CEO, Directors, and heads of key functions such as Technical, Human Resources, Accounts, and Administration etc.

Investment Options[9]

The Act broadens insurers' investment options, allowing them to hold assets in government securities, corporate debt instruments, listed equities, bank deposits, investment certificates, and real estate development. Subject to NAICOM approval and portfolio limits, insurers can also invest in foreign assets and maintain foreign currency holdings to match foreign-currency liabilities.

Dividend Payment

The Act mandates that insurers can only declare or pay dividends after clearing all start-up and administrative costs that were recorded as assets on their books, setting aside enough funds for potential losses, and meeting all capital and solvency standards[10]. This is a shift from the old rule, which only required NAICOM's approval of annual returns before dividends could be paid.

The Act also sets tougher penalties. Any Director, manager, or officer who violates these rules may face a fine of up to 5% of the dividend paid, imprisonment for up to three years, or both.[11]

Premium Collection

Under the Act, insurance agents are now restrained from collecting premiums from the insured. Payments of premiums is now mandated to be made directly to the insurer.[12] Under IA 2004, agents could collect premiums on the insurer's behalf as long as they remitted them immediately and failure to do so was a criminal offence.[13]

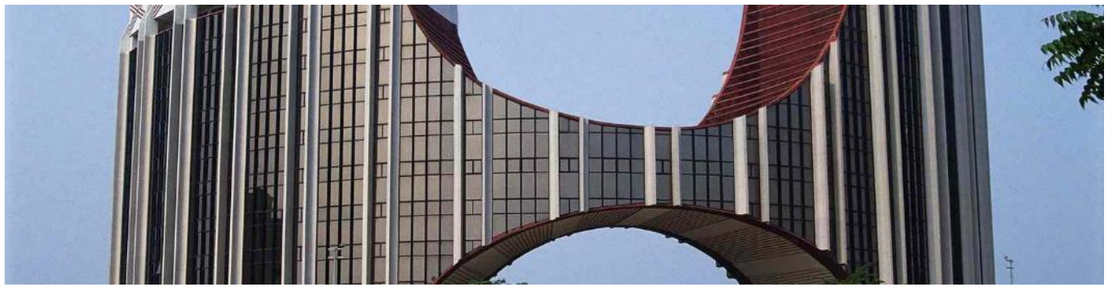
Actuarial Oversight

The Act introduces, for the first time, a statutory requirement for actuarial oversight across all insurers, not just life insurance operators. Every insurer is now required to appoint a qualified actuary and conduct an annual valuation of its liabilities, following NAICOM's prescribed standards.[14] The actuary is required to prepare a formal report in the format specified by the Commission.

8. NIIRA 2025, section 12.
9. NIIRA 2025, section 27.
10. NIIRA 2025, section 35.
11. NIIRA 2025, section 35(2).
12. NIIRA 2025, section 3.
13. NIIRA 2025, section 38(2)
14. NIIRA 2025, section 54.

Commission Cap

The Act tightens control over how much agents and brokers can earn on policies; a move aimed at keeping premiums fair, preventing unhealthy competition, and covering a wider range of insurance products than before. It fixes clear limits: 9% for group life, 12.5% for motor, 15% for workmen's compensation, 20% for other non-life policies, and 3% for single-premium annuities.[15] Agents are also barred from earning more than brokers unless NAICOM allows it. Breaches now attract stiff administrative penalties of up to five times the excess.



ECOWAS Brown Card

The ECOWAS Brown Card is a regional motor insurance policy that provides third-party liability coverage for road accidents across ECOWAS member states, including Nigeria. It covers non-residents driving into another member country.[16] To align Nigeria with ECOWAS Protocol obligations, NIIRA creates a National Bureau on the ECOWAS Brown Card Scheme as an independent corporate body with its own Management Board.[17] This was absent under the IA 2004 where NAICOM acted as the Bureau.

The new Bureau is responsible for issuing Brown Cards to insurers, with the aim of managing cross-border motor insurance operations and settling related claims both within Nigeria and across ECOWAS states.[18] From the commencement of the Act, all motor vehicle insurance policies issued in Nigeria automatically include the Brown Card, ensuring motorists have recognized third-party cover when travelling across ECOWAS borders.

15. NIIRA 2025, section 62.
16. Protocol A/P/5/82 signed on 29 May 1982 in Cotonou, Benin. Amended by Supplementary Act A/SA. 01/06/20
17. NIIRA 2025, section 103.
18. NIIRA 2025, section 103(5).

Acquisitions, Amalgamations & Transfers

The Act makes stringent provisions for the amalgamation of insurance companies, transferring from the courts to NAICOM the power for the approval of every amalgamation, agreement, transfer, acquisition, agreement for reconstruction, arrangement to employ a management agent or to transfer business to any such agent.[19]

All such approvals are subject to NAICOM's request for statements, documents and other information as may be prescribed by the Commission and may approve the amalgamation, transfer or acquisition as the case may be, if it has no objection to the transaction. Where NAICOM refuses an application, the parties may apply to a court for a review of the refusal within six months from the date of NAICOM's decision.[20]

Claims Settlement

The Act introduces firm requirements to ensure claims are settled in a timely manner while recommending penalties for insurers who delay or fail to settle valid claims. Where an express demand is made in writing and the insurer does not deny liability, all such claims must be settled within 60 days from the day the insurer was notified of the demand. Any denial or admission must be done within 60 days of notification, and any contravention of the provision shall subject the insurer to the liability for penalty of ₦500,000.00 and in addition pay the claim amount with a monthly compound interest at the prevailing bank rate.[21]

Insurance Policyholder Protection Fund

The Act introduces an Insurance Policyholders Protection Fund, an innovation which was absent in IA 2004. It protects policyholders if an insurer or reinsurer becomes distressed or insolvent. The Fund, managed independently under NAICOM oversight, is financed annually by 0.25% of each insurer's/reinsurer's gross premium income and 0.25% of the Security and Insurance Development Fund balance.[22]

19. NIIRA 2025, section 107 (1-5).
20. NIIRA 2025, section 107(7).
21. NIIRA 2025, section 210.
22. NIIRA 2025, section 212.

Cross-Border Insurance

NIIRA requires that all domestic insurance and reinsurance business, including fire, motor, liability, life, accident, health, engineering, energy, and aviation, must first be placed with licensed Nigerian insurers or reinsurers.[23] Foreign placement is only permitted if local capacity is fully exhausted and NAICOM grants prior approval. Foreign health insurers must also obtain NAICOM approval to operate in Nigeria. Violations attract penalties of up to five times the premium.[24] Under the previous law, the requirement was narrower, covering fewer classes and without a clear mandate to prioritize local capacity.

Restriction on Loans to Directors

As critical corporate governance and prudential regulation, the Act places restriction on issuance of loans to non-executive directors whether directly or indirectly, except where the loan was tied to a life policy issued to them or was part of the terms and conditions of the service of such director.[25] Previously, all officers of an insurer, including both executive and non-executive directors, were barred from receiving loans except where the loan was tied to a life policy issued to them or was part of their official service terms. Now, the Act limits the restrictions to non-executive directors.

Advertisement

Advertisements by insurers are now strictly regulated by the Commission. The Act now mandates insurers to secure prior approval from NAICOM before issuing any insurance advertisement. Advertisements must follow the Commission's prescribed form and content rules, and insurers must submit compliance returns within 14 days of using the ad.[26]

CONCLUSION

In conclusion, the Act is a game-changer for the sector. It strengthens governance, builds market capacity, protects policyholders, and brings Nigeria in line with global best practices. For insurers, the challenge is to adapt quickly and stay compliant, while businesses and investors can take advantage of greater transparency, reliability, and growth opportunities.

23. NIIRA 2025, section 204.
24. NIIRA 2025, section 204(7).
25. NIIRA 2025, section 211.
26. NIIRA 2025, section 208.

Review of the Nigeria Data Protection Act (NDP Act) 2023 General Application And Implementation Directive (GAID) 2025

On 20 March 2025, with 52 Articles and 10 Schedules, the Nigeria Data Protection Act General Application and Implementation Direction 2025 (**GAID** or the **Directive**) was issued by the Nigeria Data Protection Commission (**NDPC** or the **Commission**) pursuant to its powers under the Nigeria Data Protection Act 2023 (**NDPA** or the **Act**)[27] to enhance the understanding, implementation and effectiveness of the NDPA.[28]

The GAID seeks to provide clarifications regarding the provisions of the NDPA, introduce a more comprehensive framework for data processing in Nigeria, and also address recent developments such as Emerging Technologies (**ETs**) not originally considered by the NDPA. The Directive seeks to provide the much-needed clarity and addresses the concerns that over time been highlighted as challenges within Nigeria's data privacy and protection framework. Key highlights of the GAID are addressed below:

Repeal of the Nigeria Data Protection Regulation 2019 (NDPR)

The GAID addresses the continued applicability of the NDPR following the enactment of the NDPA in 2023. The Directive specifically provides: "upon the issuance of GAID, the Commission shall cease to apply the Nigeria Data Protection Regulation (NDPR) 2019 as a legal instrument for regulating data privacy and protection."[29] This however does not affect anything done under the NDPR prior to the issuance of GAID.[30] The Directive though silent about the NDPR Implementation Framework (the Framework), it is reasonably considered that the Framework is equally repealed given that the Framework was made pursuant to the NDPR and has thus become obsolete.

Categories of Data Subjects

The GAID grouping data subjects entitled to enjoy data subject's rights under the NDPA into four (4) categories,[31] expands the scope of application of the NDPA to the processing of personal data of Nigerian individuals residing in a foreign country, subject to recognition under international law.

27. *NDPA, Section 6.*
28. *Where any inconsistency arises between the NDPA and the GAID, the provisions of the NDPA will prevail – GAID, Article 3(2).*
29. *GAID, Article 3(3).*
30. *ibid.*
31. *These categories are as follows: (x) those within Nigeria regardless of their nationality or migration status; (y)those whose personal data have been transferred to Nigeria; (z) those whose personal data are in transit through Nigeria, provided that the responsibility of the Data Controller or Data Processor is limited to data confidentiality, integrity, and availability; and (xx) Nigerian citizens not resident in Nigeria. GAID, Article 1(4).*

It also recognises circumstances where consent may be implied, including publication of images taken at public events and when a user dismisses a privacy notice essential to a website's functionality.

Data Protection Officers

The GAID requires Data Protection Officers (**DPOs**) to submit semi-annual compliance reports to the management of Data Controllers and Data Processors, assessed against data protection principles, lawful processing bases, user rights, and complaint resolution,[32] which must be verified by a Data Protection Compliance Organisation (**DPCO**) during compliance audits.[33] DPOs must also undergo an Annual Credential Assessment by the Commission,[34] which will maintain a database of certified officers,[35] and their conduct is governed by the NDPA, GAID, DPCO Code of Conduct, and related instruments until a dedicated code for DPOs is issued.[36]

Processing of Personal Data for Household and Personal Purposes

The NDPA exempts personal or household processing of personal data provided it does not infringe the privacy rights of data subjects, but the GAID clarifies that this exemption does not apply where such processing involves actions that expose others' data to risk such as granting applications access to phone contacts, sharing or disclosing personal data, mishandling devices containing such data, or enabling unauthorized access.[37]

Lawful Bases for Data Processing

The GAID expands the lawful bases for processing under the NDPA by introducing Special Rule of Law Indexes (**SRLI**)[38] to address unclear or improperly obtained consent, and identifies situations where consent is mandatory, such as direct marketing, sensitive data processing, processing minors' data, further processing, international transfers to non-whitelist countries, and cookie usage.[39] It also recognises circumstances where consent may be implied, including publication of images taken at public events and when a user dismisses a privacy notice essential to a website's functionality.[40] Additionally, the GAID introduces the principle of "legitimate expectation" within the vital interest basis[41] and provides a legitimate interest assessment template to guide Data Controllers and Processors in evaluating whether reliance on legitimate interest is appropriate and lawful.[42]

32. *The decision in Olumide Babalola LP & Ors v. True Software Scandinavia & Ors (FHC/ABJ/CS/195/2024) reinforces this position by holding that users who upload or permit access to phone numbers via applications like Truecaller act as data controllers and bear responsibility for any resulting breach of privacy, highlighting that even non-commercial personal data processing must be privacy-conscious and secure.*
33. *GAID, Article 17.*
34. *GAID, Articles 18 and 19.*
35. *GAID, Article 17(8).*
36. *GAID, Article 25 (2).*
37. *GAID, Schedule 8.*
38. *GAID, Article 17.*
39. *GAID, Articles 18 and 19.*
40. *GAID, Article 17(8).*
41. *GAID, Article 25 (2).*
42. *GAID, Schedule 8.*

Provision of Information to the Data Subject

The GAID jettisons the requirement for data controllers to provide a privacy policy to data subjects[43] during exclusive physical interactions such as interviews or where the data subject is illiterate and unable to comprehend it independently;[44] however, in such cases, data controllers must still supply all required information under the NDPA,[45] including their identity and the lawful basis for processing, before collecting personal data.[46]

Compliance Measures for Data Controllers and Processors

The GAID strengthens NDPA compliance by mandating registration and periodic audits for major data controllers/processors,[47] privacy governance frameworks with clear privacy and cookie notices,[48] and rigorous internal controls including semi-annual data protection reporting.[49] It requires high-level entities to appoint a Data Protection Officer,[50] maintain updated third-party processing agreements,[51] and build systems that enable data access,[52] correction,[53] and portability.[54] Organizations must report breaches to the NDPC within 72 hours and notify affected individuals where risks are high,[55] conduct regular staff training,[56] and provide accessible complaints mechanisms.[57]

It requires high-level entities to appoint a Data Protection Officer,50 maintain updated third-party processing agreements,51 and build systems that enable data access,52 correction,53 and portability

Data Controllers and Data Processors of Major Importance

The GAID affirms the NDPC's earlier classification of Data Controllers and Processors of major importance into three levels: Ultra High (MDP-UHL), Extra High (MDP-EHL), and Ordinary High (MDP-OHL) and clarifies their corresponding compliance obligations, requiring those in the UHL and EHL categories to register once and thereafter submit annual Compliance Audit Reports, while those classified as OHL must renew registration annually but are not required to file a Compliance Audit Report (CAR).[58]

Data Subject's Standard Notice to Address Grievance

The GAID introduces the Standard Notice to Address Grievance (SNAG), allowing Data Subjects to alert Data Controllers or Processors of suspected privacy violations[59] without making it a prerequisite for complaints to the NDPC or court action.[60] The NDPC may develop a platform to track SNAGs and receive responses[61] and may initiate direct investigations where issues remain unresolved.[62]

43. *NDPA, Section 27(3).*
44. *GAID, Article 27.*
45. *NDPA, Section 27(1).*
46. *GAID, Article 27(3).*
47. *GAID, Article 9.*
48. *GAID, Article 19.*
49. *GAID, Article 13.*
50. *GAID, Article 7(i).*
51. *GAID, Article 7(r).*
52. *GAID, Article 7(s).*
53. *GAID, Article 7(t).*
54. *GAID, Article 7(u).*
55. *GAID, Article 33.*
56. *GAID, Article 30.*
57. *GAID, Article 7(w).*
58. *GAID, Article 9(2) and (3).*
59. *GAID, Article 40(2).*
60. *GAID, Article 40(3).*
61. *GAID, Article 40(5) and (6).*
62. *GAID, Article 40(7).*

Emerging Technologies

The GAID extends data protection obligations to emerging technologies, including artificial intelligence, internet of things, and blockchain, requiring data controllers and processors to conduct Data Privacy Impact Assessments, test such technologies in low-risk environments, assess and address potential discriminatory outcomes, and repeatedly refine or discard them where risks cannot be mitigated, while also maintaining ongoing monitoring and evaluation frameworks to ensure continued privacy compliance.[63]

CONCLUSION

The GAID signals a notable advancement in Nigeria's data protection landscape, offering the clarity and direction required to interpret and operationalise the NDPA while also addressing modern developments and emerging technologies not initially contemplated under the Act. The Directive serves as a practical framework for Data Controllers and Data Processors in managing personal data and adopting innovative digital systems. Its effective implementation is expected to enhance confidence in and strengthen public trust toward Nigeria's data protection regime.

63. *GAID, Articles 43 & 4.*

Review of the South-West Development Commission (Establishment) Act, 2025

The South-West Development Commission (Establishment) Act, 2025 (the "SWDCA" or the "Act") establishes the South-West Development Commission (the "SWDC" or the "Commission"). The Act was enacted against a backdrop of infrastructural deficits, ecological challenges, and the need for coordinated regional development in the South-West region.

The Act charges the SWDC with the responsibility of managing funds for the settlement, rehabilitation, reconstruction, and sustainable development of the South-West states of Nigeria namely Ekiti, Lagos, Ogun, Ondo, Osun, and Oyo. This review provides a comprehensive analysis of the act's salient provisions below.

The Governing Board

Section 2 of the SWDCA establishes a Governing Board ("the **Board**") as the Commission's apex decision-making body. Its composition is a critical feature of the Act in terms of Regional Representation. The Board includes a Chairman (rotating alphabetically among the six member states[64]), a Managing Director, and four Executive Directors, each from a different South-West state.[65]

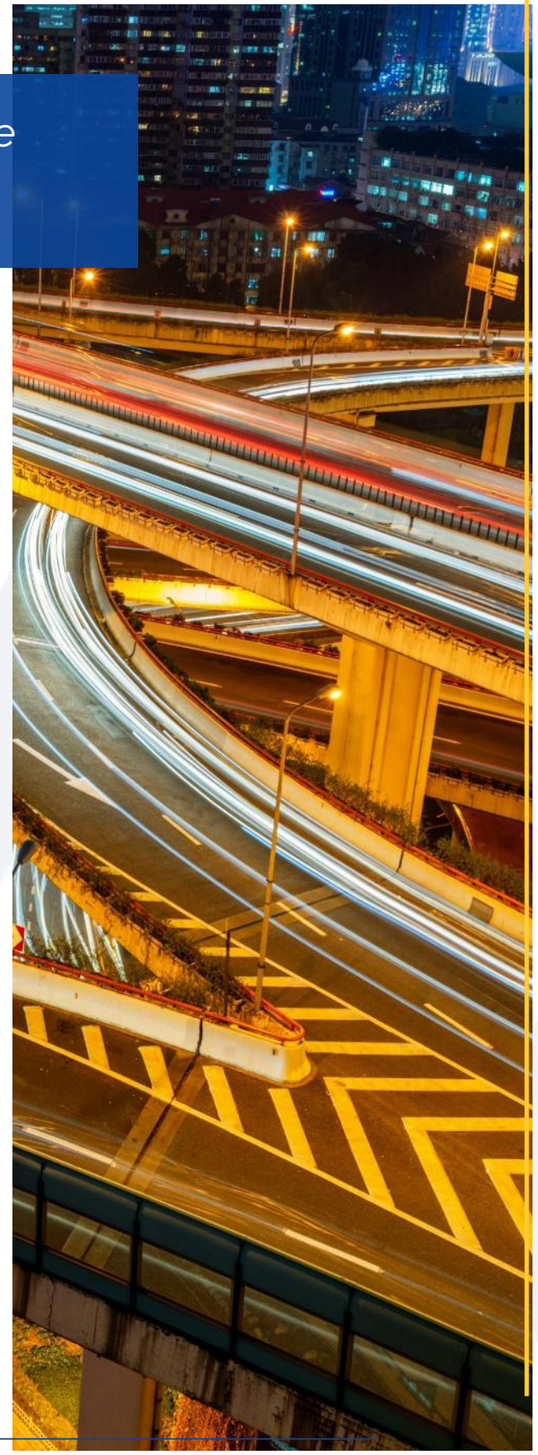
Appointment Process

The Act prescribe that the President shall appoint the Chairman, Managing Director, and other members, subject to Senate confirmation.[66] The Executive Directors, however, are appointed on the recommendation of the Advisory Committee, giving state governors a significant say.[67]

Advisory and Management Committees

The Act establishes two key internal bodies. First is the Advisory Committee, which comprises of the six state governors of the region and two other presidential appointees, this body is tasked with advising, guiding, and monitoring the Commission's activities[68]. Notably, its power to recommend Executive Directors is a significant check on the Board[69] The second body is the Management Committee, which is responsible for the day-to-day administration of the Commission. It is headed by the Managing Director and comprises of the heads of the Commission's various departments.[70]

64. *SWDCA, Section 4*
65. *SWDCA, Section 2(2) and (4).*
66. *SWDCA, Section 2(5).*
67. *SWDCA, Section 2(5) (c).*
68. *SWDCA, Section 11*
69. *SWDCA, Section 2(5) (c)*
70. *SWDCA, Section 10*



> *This direct allocation represents a substantial pre-deduction from the revenue that would otherwise go directly to the state governments.*

Funding and Financial Reporting

Section 14(1) of the Act creates a dedicated and substantial fund, the proceeds of which shall be used for all expenses incurred by the commission, inclusive of administrative costs, staff remuneration, contract payments, and undertaking projects connected to the Commission's functions.[71]

Section 14(2)(a) of the Act mandates that the equivalent of 15% of the total monthly statutory allocations due to the member states from the Federation Account shall be paid into the Commission's fund. This direct allocation represents a substantial pre-deduction from the revenue that would otherwise go directly to the state governments. The Fund is also to be financed by grants, loans, gifts, and proceeds from the Commission's assets[72] Corresponding with this funding, the Act provides for strict reporting requirements on the Commission. The Commission must submit quarterly reports on its activities and also submit yearly audited accounts and auditor's report the president

Functions, Powers, and Mandate

Section 7 of the Act confers a wide-ranging and ambitious mandate on the Commission, positioning it as a powerful regional development agency. The Commission is empowered to formulate policies, conduct surveys, and prepare master plans for the physical and socio-economic development of the region.[73] It is also tasked with conceiving, planning, and implementing projects across a broad spectrum of sectors, including transportation, health, education, employment, agriculture, and housing.[74]

In addition, the Commission has responsibility for environmental protection and control, particularly in relation to ecological problems arising from mineral extraction and oil exploration, and is authorised to advise on the prevention of oil spillages and gas flaring.[75] Finally, the Act vests the Commission with corporate accountability functions by empowering it to assess and report on projects funded by mineral extraction companies and non-governmental organisations in order to ensure proper utilisation of funds.[76]

71. *SWDCA, Section 15*
72. *SWDCA, Section14(2) (b-d).*
73. *SWDCA, Section 7(1) (a-d).*
74. *SWDCA, Section 7(1)(b).*
75. *SWDCA, Section 7(1)(h).*
76. *SWDCA, Section 7(1)(g)*

Financial Accountability and Reporting

The Act incorporates several provisions aimed at ensuring transparency and accountability in the management of public funds. The Board is required to submit annual estimates to the National Assembly and ensure the Commission's accounts are audited within six months of the financial year's end by auditors appointed from a list provided by the Auditor-General for the Federation.[77] In addition, the Commission must submit quarterly and annual reports on its activities and administration to the President, who is to table them before the National Assembly.[78] The Act further establishes Monitoring Committee has the power to monitor fund management and project implementation, with unrestricted access to the Commission's books and records, providing an additional layer of external oversight.[79]

Limitation period and pre-action notice

The act provides that any suit against the Commission, a member of the Board or officers or employees of the Commission must be commenced within three months of the act in question or in the case of continuous injury, within 3 months of cessation of it[80]. The Act further prescribes for a one-month pre-action notice.[81]

CONCLUSION

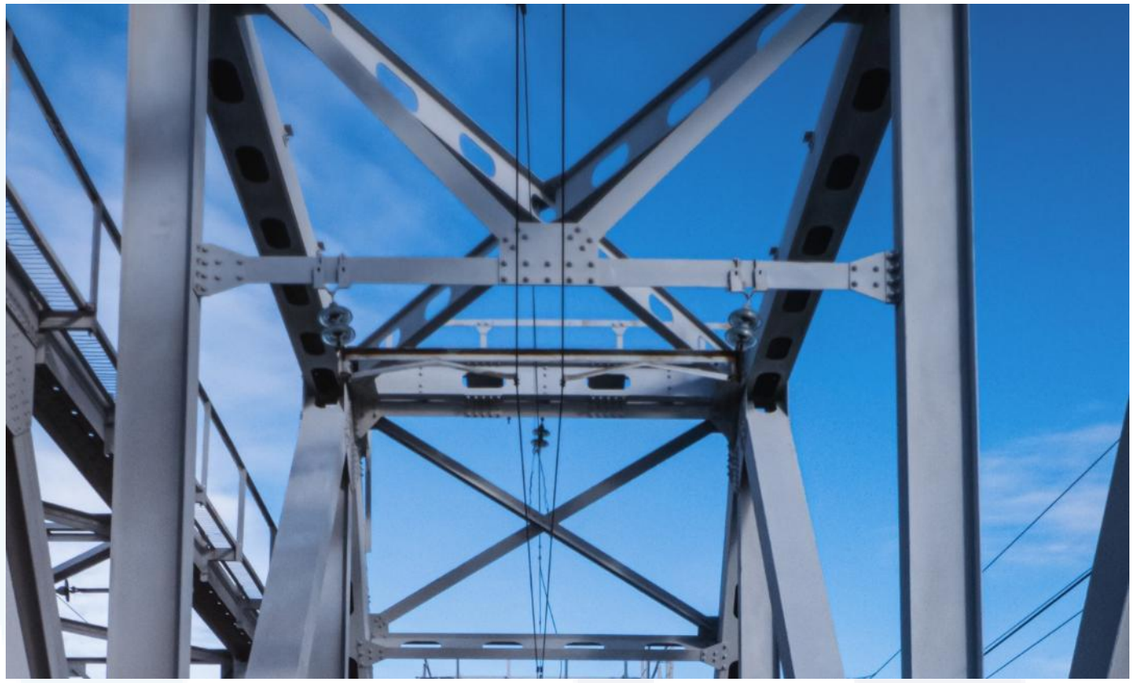
The Act represents a bold legislative intervention aimed at addressing the developmental challenges of Nigeria's South-West through a centralized, well-funded agency. However, the success of the Commission will be dependent on effective and transparent implementation.

…the Commission must submit quarterly and annual reports on its activities and administration to the President, who is to table them before the National Assembly

77. SWDCA, Section 16
78. SWDCA, Section 17
79. SWDCA, Section 18
80. SWDCA, Section 21 (1)
81. SWDCA, Section 21 (2)

Review of the South-South Development Commission (Establishment) Act, 2025

The South-South zone of Nigeria has long contended with unique socio-economic difficulties, ranging from infrastructural deficits to severe environmental degradation caused by oil exploration. Recognizing the need for a specialized legal framework to address these issues, the National Assembly enacted the South-South Development Commission (Establishment) Act, 2025 ("**SSDCA**" or the "**Act**"). The Act establishes a Commission charged with the responsibility to receive and manage funds from the Federation Account allocation and other sources to fast-track the development of the zone and tackle ecological problems. This review provides a comprehensive analysis of the act's salient provisions below.



Establishment and Governance Structure

Section 1 of the Act establishes the South-South Development Commission (the "Commission") as a body corporate with perpetual succession. A notable feature of the Act is the composition of the Governing Board. While it includes a Chairman, Managing Director, and representatives from the six member states (Akwa Ibom, Bayelsa, Cross River, Delta, Edo, and Rivers), it also mandates inclusion from other zones. The Act specifically requires one person each to represent the North Central, Northwest, Southeast, Northeast, and Southwest geopolitical zones. This structure aims to foster national cohesion in the administration of the Commission.[82]

Rotation of Key Offices

To ensure equity among the constituent states, Section 5 of the Act creates a statutory rotation for the leadership. It provides that the office of the Chairman and the Managing Director shall rotate among the member States of the Commission, ensuring that every member State is given equal opportunity.[83]

Functions of the Commission

Section 8 of the Act outlines the Commission's functions, placing a heavy emphasis on environmental remediation. The Commission is expressly empowered to tackle ecological and environmental problems arising from the extraction and mining of solid minerals and the exploration of oil minerals. Furthermore, it is mandated to advise the Federal Government and member states on the prevention and control of oil spillages, gas flaring, and environmental pollution, and to liaise with oil and gas producing companies on matters of pollution control.

82. *SSDCA, Section 2(1) (d)*
83. *SSDCA, Section 5*

Funding Mechanism

The Act establishes a Fund for the Commission, and Section 15(2)(a) of the Act stipulates that the Federal Government shall pay into this Fund the equivalent of 15% of the total monthly statutory allocations due to member States of the Commission from the Federation Account. This creates a direct, statutory funding line deducted from the allocations of the member states to finance the Commission's activities.

Administrative Structure and Headquarters

The Act designates Uyo, Akwa Ibom State, as the location for the head office of the Commission.[84] It further establishes a detailed administrative structure comprising various Directorates, including Directorates for Environmental Protection and Control; Utilities, Infrastructural Development and Waterways; and Education, Health and Social Services.[85]

Establishment of an Advisory Committee

To ensure high-level political oversight, Section 12 of the Act establishes the South-South Development Advisory Committee. This body consists of the Governors of the member States of the Commission and two other persons appointed by the President. The Committee is charged with advising the Board and monitoring the Commission's activities to ensure its objectives are achieved.

CONCLUSION

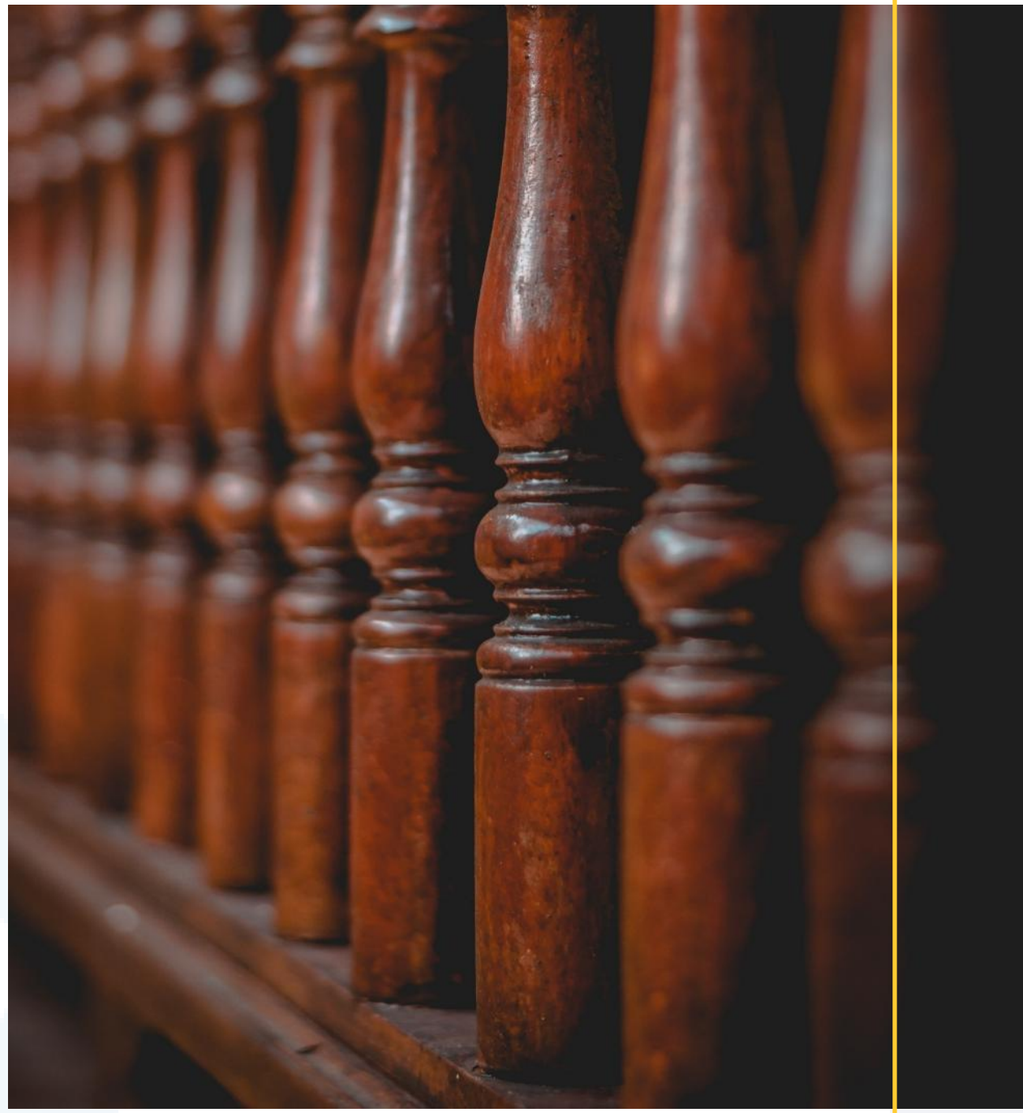
The enactment of the SSDCA is designed to provide a focused institutional framework for a region that is the economic heartbeat of the nation yet faces profound developmental challenges. It provides a long-awaited dedicated legal framework to address the complex issues of infrastructural neglect and environmental degradation unique to the Niger Delta. However, the composition of the Board and the mandatory rotation of leadership will necessitate adept political management to ensure that development goals are not overshadowed by competing regional interests.

It provides a long-awaited dedicated legal framework to address the complex issues of infrastructural neglect and environmental degradation unique to the Niger Delta

84. SSDCA, Section 10(1)
85. SSDCA, Section 10(2)

Review of the High Court of the FCT (Civil Procedure) Rules 2025

The Chief Judge of the Federal Capital Territory, by virtue of Section 259 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), recently issued the High Court of the Federal Capital Territory (Civil Procedure) Rules 2025 ("**the 2025 Rules**") which amended the High Court of the Federal Capital Territory Civil Procedure Rules 2018 ("**the 2018 Rules**"). The 2025 Rules came into effect on 03.03.2025. In this publication, we review the significant amendments and comment briefly on the effect the amendment is likely to have on civil proceedings before the High Court of the FCT. We will proceed to highlight the notable innovations of the 2025 Rules



Amendments as to time

The 2025 Rules made major amendments by way of extension of time to perform a plenitude of acts. The rules taker a more lenient approach in most instances and provide parties with ample opportunity to present their case. These amendments as to time are highlighted below.

The Life Span of Originating Processes

Order 8 Rule 6 (13) of the 2025 Rules provides notable amendments to what was obtainable under the 2018 Rules in relation to the lifespan of an originating process and the period within which to seek an extension in the event of expiration. Under the 2025 Rules, the validity of the existence of an originating process has been extended from six to twelve months in the first instance and an application for the renewal of an originating process can be made to the Court within 14 days of expiration of the originating process as against the practice under the 2018 Rules which was previously to be brought before the expiration of the originating process. This extension of lifespan of an originating process and the timeframe for renewal enhances give ample opportunity for litigants to ensure originating processes are served, especially in instances where service of originating processes are marred by complexities that occasion undue delay, by expanding the lifespan litigants cannot be seen to complain shortage of time.

Grant of Probate or Administration in General

By order 56 Rule 4 of the 2025 Rules, there is an extension of the time within which the grant of administration shall be issued after the death of the deceased. In the instance of a deceased with a will, the grant of administration can only be issued after 14 days of his death, while a grant of administration for a deceased without a will can only occur after 21 days of his death which was originally 7 days and 21 days under the 2018 Rules.

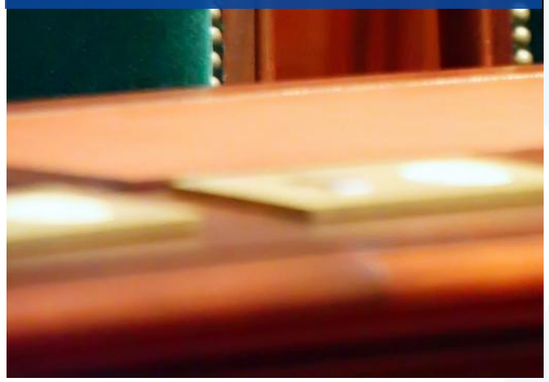
Entering Appearances

The 2025 Rules, in Order 11 Rule 1, enlarges the time within which a defendant is allowed to enter an appearance in a suit after being served with an originating process from 7 days provided in the 2018 Rules to 21 days. By extending the time for entering an appearance from 7 days to 21 days, the 2025 Rules provides defendants with a more reasonable window to respond to originating processes.

Filing of Reply

Order 18 Rule 1 of the 2025 Rules enlarges the time within which a claimant can file a reply to the statement of defence to 14 days upon receipt of the service of the statement of defence as against the 7 days period provided for under the 2018 Rules. This affords the Claimant a reasonable time to prepare and file a Reply where necessary and is likely to reduce the frequency of applications seeking to regularize replies filed out of time.

> *It requires high-level entities to appoint a Data Protection Officer,50 maintain updated third-party processing agreements,51 and build systems that enable data access,52 correction,53 and portability*



Motions and Applications

By Order 30 Rule 1 (4) of the 2025 Rules, the time within which an applicant may respond to an address filed by an opposing party is reduced from 7 days to 5 days after being served with the written address. The 2018 Rules specified that the court may deem written addresses as adopted after 2 days while the 2025 Rules only state that the written addresses may be deemed adopted without specifying a time period.

Filing of Final Address

Order 38 Rule 14 of the 2025 Rules provides that 'where the party beginning a trial has concluded his evidence, the court shall ascertain whether the other party intends to call evidence. Where the other party declines to call evidence, the party beginning shall within 15 days file a final written address'.

However, Order 32 Rule 14 of the 2018 Rules provided that 'where the party beginning a trial has concluded his evidence, the court shall ascertain whether the other party intends to call evidence. Where the other party declines to call evidence, the party beginning shall within 21 days after the close of evidence file a written address, thus, reducing the number of days allowed to file a written address from 21 days to 15 days.

The new provision for substituted service under the 2025 Rules aims to ensure that parties take all available steps to serve processes by personal means unless it becomes impracticable, and the only option would be resorting to the court for leave to serve processes by substituted means.

Requirement for Service of Processes by substituted means

Order 9 Rule 11(3) of the 2025 Rules requires an application for substituted service of a process only after the applicant has attempted personal service of the process as against making such application at the party's discretion either before or after an attempt has been made to effect personal service of the originating process. The new provision for substituted service under the 2025 Rules aims to ensure that parties take all available steps to serve processes by personal means unless it becomes impracticable, and the only option would be resorting to the court for leave to serve processes by substituted means. Under the 2018 Rules, an application for substituted means would be entertained where it appears to the Court (either after or without an attempt at service) that for any reason prompt service could not be conveniently effected. The requirement to attempt personal service before seeking substituted service strengthens procedural fairness and ensures due diligence in serving court processes.

No deeming of Amended processes

Order 24 Rule 1 of the 2025 Rules provides that amended processes can no longer be filed along with an application seeking leave to amend the process. This is because of the requirement that the amended process when filed must display the order granting leave to amend the process. Consequently, applications for leave to amend a process will no longer include a prayer for a deeming order of the proposed amended process.

Security of an absconding Defendant

The 2018 Rules provided that a defendant may abscond from Nigeria which might lead to the obstruction of an impending judgment against him, the Court is required to issue a warrant to ensure the defendant's appearance before the Court. However, Order 33 Rule of the 2025 Rules prescribes that a summons be issued to ensure the attendance of the defendant on a date specified on the summons issued by the Court.

> *This direct allocation represents a substantial pre-deduction from the revenue that would otherwise go directly to the state governments.*

Hearing of matters under the Undefended List

The 2025 Rules prescribes a flexible form of hearing and determining a suit brought under the undefended list. In the 2018 Rules, an action brought via an undefended list could only be heard in an open court and determined for either transfer to the general cause list or eventually decided as an undefended action. Order 34 Rule 1 of the 2025 Rules gives Judges the vires to hear and determine actions brought via the undefended list procedure in chambers. Additionally, a defendant served with a writ for an undefended list action has the opportunity to notify the Court registry, within 21 days of receipt of the service, of an intention to defend the suit as opposed to the 5 days prescribed in the 2018 Rule. Allowing judges to hear undefended list matters in chambers and extending the defendant's response time from 5 to 21 days enhances procedural flexibility and fairness.

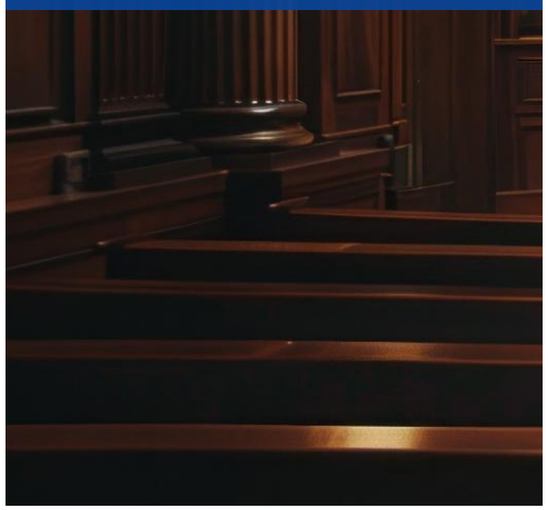
Summary Proceedings for Possession of Landed Property Occupied by Squatters or Without the Owner's Consent

Order 36 Rule 1 of the 2025 Rules introduces the requirement that a claimant must include documentary evidence annexed to its affidavit in support of the originating summons in summary proceedings for possession of landed property occupied by squatters or without the owner's consent, which was not included under the 2018 Rules. Order 60 Rule 3(a) of the 2018 Rules provided that a claimant shall file in support of the originating summons an affidavit stating his interest in the land without more. Mandating documentary evidence for summary proceedings on

Hearing of matters under the Undefended List

Order 39 Rule 2 of the 2025 Rules provides that a written address shall be printed on white A4 size paper, in Times New Roman font size 14, set out in paragraphs, numbered serially in 1.5 spacing while order 33 Rule 2(i) of the 2018 Rules provided that 'a written address shall be printed on white A4 sized paper set out in paragraphs, numbered serially'. Standardizing formatting requirements for written addresses ensures uniformity and readability in legal documents, which has also been introduced in the Rules of the appellate courts.

> *…sittings at the high court for the dispatch of civil matters will be held on every weekday except during the week ending with Good Friday and beginning with Easter Monday*



Fast Track Proceedings

Order 41 Rule 2 of the 2025 Rules provides 'that fast-track proceedings shall be applicable only to (a) Banker/customer transactions; (b) Commercial transactions, excluding (x) landlord & tenant disputes; and (z) federal capital territory or area council revenue which was found under the 2018 Rules. Order 41 Rule 3 of the 2025 Rules provides that 'the substantive monetary claim in actions under this order shall not be less than N100,000,000' as opposed to the N50,000,000 under the 2018 Rules. Order 41 Rule 7 of the 2025 Rules increased the non-refundable fee for causes under this Order from N100,000 under the 2018 Rules to N500,000.

Multiple Judges in hearing of Appeals to Districts/Magistrate Courts

The inference to be drawn from order 46 Rule 8 of the 2025 Rules is that all appeals from lower courts shall be heard by one or more judges of the court. This was not the case under the 2018 Rules which specifically provides for the constitution of the court in civil appeals to be a sole judge. Mandating appeals from lower courts to be heard by one or more judges rather than a sole judge could enhance deliberation and appellate scrutiny.

Court sitting and Vacation

Order 48 Rule 4 (b) 2025 Rules provides that 'subject to the directions of the Chief Judge, sittings at the high court for the dispatch of civil matters will be held on every weekday except during the week ending with Good Friday and beginning with Easter Monday. Order 48 Rule 4 (e) 2025 Rules further provides that subject to the directions of the Chief Judge, sittings at the high court for the dispatch of civil matters will be held every weekday except during the annual vacation effective from any week in July. This is a departure from order 52 Rule 4(b) of the 2018 Rules, which provided that 'subject to the directions of the Chief Judge, sittings at the high court for the dispatch of civil matters will be held on every weekday except during the week beginning with Easter Monday. Order 52 Rule 4(e) of the 2018 Rules also provided that 'subject to the directions of the Chief Judge, sittings at the high court for the dispatch of civil matters will be held on every weekday except during the annual vacation effective from the last week of July.

Computation of Time

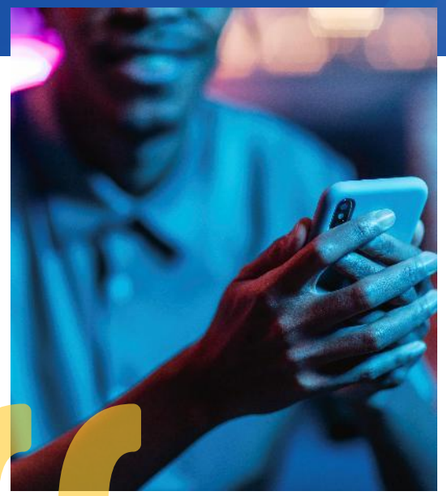
The Act designates Uyo, Akwa Ibom State, as the location for the head office of the Commission.[84] It further establishes a detailed administrative structure comprising various Directorates, including Directorates for Environmental Protection and Control; Utilities, Infrastructural Development and Waterways; and Education, Health and Social Services.[85]

Conclusion

The 2025 Rules introduces substantial procedural reforms designed to enhance judicial efficiency, minimize delays, and promote procedural clarity in civil litigation before the High Courts of the FCT. Notable changes include extended timelines for filing key processes, stricter service requirements, and increased financial penalties for non-compliance. These amendments signal a move toward a more structured and disciplined judicial process, reinforcing the need for diligence in procedural adherence. As the legal community navigates these changes, practitioners must stay abreast of the new requirements to ensure compliance, mitigate risks of procedural missteps, and facilitate smoother case management matter.

NOTABLE FOREIGN CASES

The Protecting Americans from Foreign Adversary Controlled Applications Act, which prohibits TikTok from operating in the United States after January 19, 2025, unless the Chinese company that owns it divests its assets, does not infringe upon the First Amendment - **TikTok Inc. v. Garland 604 U.S. [2025]**



The Petitioners also highlighted that the Act specifically targets TikTok and ByteDance Ltd, amounting to content-based discrimination, as it singles them out for disfavoured treatment compared to other applications

Brief Facts

The Petitioners, TikTok Inc. and ByteDance Ltd., had filed a lawsuit against the US Attorney General - Merrick Garland in the Court of Appeals for the District of Columbia Circuit ("**the DC Court**") challenging the constitutionality of the Protecting Americans from Foreign Adversary Controlled Applications Act ("**the Act**"). The Act prohibits the operation of certain applications, including TikTok, in the United States (**US**) unless they are divested from foreign adversary control. In December 2024, the DC Court rejected the Petitioners' arguments and found that the Act does not contravene the Petitioners' First Amendment rights nor violate the Fifth Amendment. The Supreme Court granted certiorari for the Petitioners' appeal on an expedited schedule owing to the provision in the Act that companies controlled by foreign adversaries must divest themselves of control by foreign entities by 19.01. 2025. The case was consolidated with a lawsuit filed by TikTok content creators (**Firebaugh v. Garland**), which also challenged the Act, arguing that it violates the First Amendment rights of TikTok and its users.

The Petitioners argued that the Act imposes a severe burden on the expressive activities of TikTok Inc., an American company and that TikTok's content curation and recommendation algorithms are forms of protected speech under the First Amendment. They argued that the Act's prohibition on TikTok's operation in the US constitutes a content-based and speaker-based restriction, necessitating strict scrutiny. The Petitioners also highlighted that the Act specifically targets TikTok and ByteDance Ltd, amounting to content-based discrimination, as it singles them out for disfavoured treatment compared to other applications. Furthermore, they contended that the Act is not narrowly tailored to achieve the government's purported national security interests, suggesting that less restrictive alternatives were not adequately considered by Congress. They pointed out that the Act is both overbroad and underinclusive, exempting other applications that could pose similar risks. Lastly, the Petitioners referenced historical practices and precedents, arguing that even during times of heightened national security concerns, the US did not resort to suppressing speech.

The Respondent argued that the Act addresses significant national security concerns related to TikTok's data collection practices and the potential for content manipulation by the Chinese government, given that ByteDance Ltd - TikTok's parent company, is subject to Chinese laws that could compel the release of data gathered by TikTok to the Chinese intelligence agencies. The Respondent contended that the Act is content-neutral, targeting the control of the application by a foreign adversary rather than the content itself, with the primary aim of preventing the Chinese government from accessing sensitive data of the US users and manipulating content for geopolitical purposes. The Respondent asserted that even if the Act implicated First Amendment rights, it should be subject to intermediate scrutiny, as it advances important governmental interests unrelated to the suppression of free speech and does not excessively burden speech. The Respondent also maintained that the Act is narrowly tailored to address the specific national security risks posed by TikTok, with the divestiture[86] requirement being a targeted solution that allows TikTok to continue operating in the US if it is no longer controlled by a foreign adversary. At the Supreme Court, the issue determined was centred on whether the Act violates the First Amendment as applied to the petitioners?

Decision of the US Supreme Court

The Supreme Court, in its per curiam decision[87] of 17.01.2025, upheld the constitutionality of the Act, concluding that it does not violate the First Amendment rights of the Petitioners. The Court held that the Act is a content-neutral regulation aimed at addressing national security concerns rather than suppressing speech based on its content. The Court found that the Act's prohibitions and divestiture requirement are justified by a content-neutral rationale of preventing the Chinese government from accessing sensitive data and manipulating content.

The Court applied intermediate scrutiny, concluding that the Act advances important governmental interests unrelated to the suppression of free expression and does not burden substantially more speech than necessary to further those interests. The Court emphasised that the Act's prohibitions are narrowly tailored to address the specific national security risks posed by TikTok. The Court found the government's national security justifications compelling, noting the extensive data collection practices of TikTok and the potential for covert content manipulation by the Chinese government. The Court accorded substantial deference to the predictive judgments of Congress and the Executive Branch regarding national security threats.

The Court concluded that the Act is narrowly tailored to address the government's national security concerns. The Court rejected the Petitioners' proposed alternatives, such as disclosure requirements and a national security agreement, finding that they would not adequately mitigate the risks posed by TikTok's foreign control. Although the Court recognised the inherent narrowness of its decision, considering that data collection is a common practice in this digital age, it justified its holding based on the "vast swaths of sensitive data" TikTok obtains from its users.

86. *A "qualified divestiture" is one that the President determines will result in the application "no longer being controlled by a foreign adversary".*
87. *A decision not attributed to a specific judge, but to the entire court or panel of judges who heard the case.*

Concurring Opinions

Justice Sotomayor concurred in part, agreeing that the Act survives the petitioners' First Amendment challenge but opining that the Court should have clearly held that the Act **implicates** the First Amendment because it imposes a disproportionate burden on expressive activity even though it does not violate the First Amendment. Justice Gorsuch concurred with the judgment, expressing reservations about the content-neutrality of the Act and the use of classified evidence. He emphasised the importance of transparency and the need for Congress to consider less restrictive alternatives.

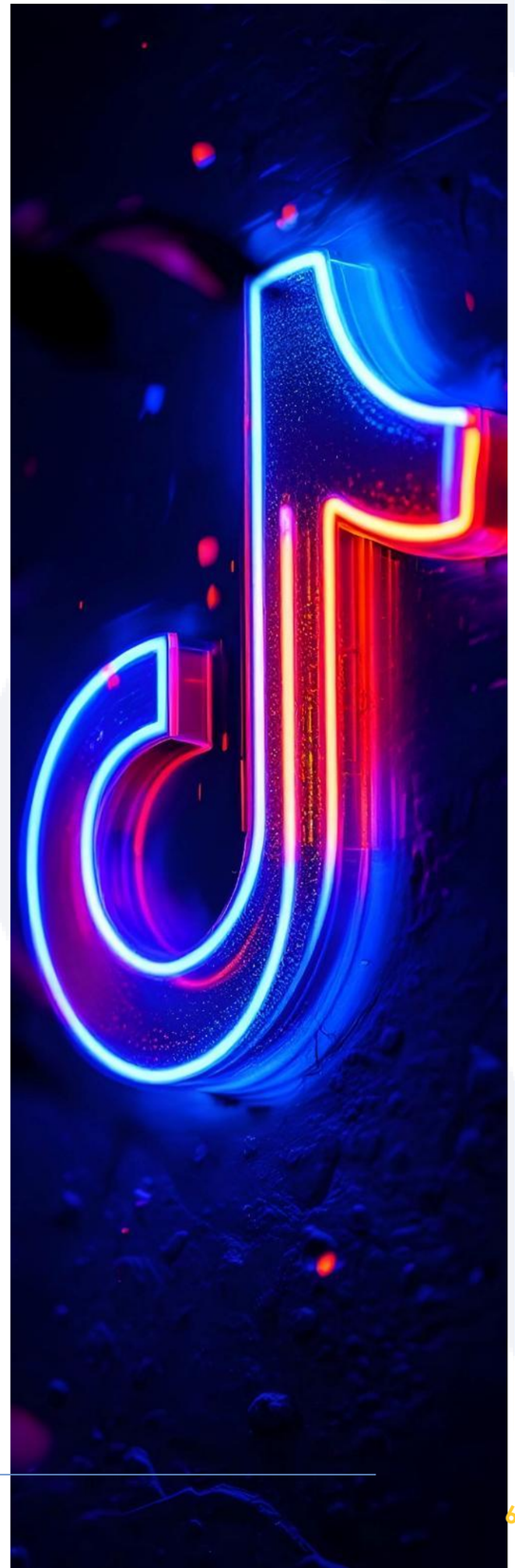
Commentary

This decision reinforces the growing global trend of prioritizing data protection and national security over unfettered digital platform access. By upholding the restrictive provisions of the Act, the U.S. Supreme Court has affirmed that governments can impose restrictions on foreign-owned platforms without necessarily infringing upon free speech rights, provided such restrictions are content-neutral and tailored to address legitimate security concerns.

From a Nigerian perspective, the ruling underscores the increasing regulatory scrutiny over data sovereignty and foreign tech companies' control over user information. Nigeria's Data Protection Act 2023 already imposes strict obligations on data controllers, and this decision may inspire local policymakers to adopt stronger regulatory measures, particularly against foreign-owned digital platforms perceived as national security risks.

Moreover, the ruling highlights how courts may balance constitutional free speech guarantees, such as Nigeria's section 39 of the 1999 Constitution (as amended) against national security interests. Nigerian courts have historically exercised caution in reviewing executive actions on security matters, as seen in the 2021 Twitter suspension. If Nigeria enacts legislation targeting foreign-controlled platforms, courts could draw from the U.S. Supreme Court's reasoning in this case, applying intermediate scrutiny to determine whether restrictions serve a significant governmental interest without unduly burdening free expression.

Ultimately, this case signals that national security concerns surrounding foreign-controlled tech platforms are not merely political rhetoric but are being validated through legal frameworks. The ruling could serve as a persuasive authority for other jurisdictions, including Nigeria, in shaping digital sovereignty laws and judicial responses to challenges against them.



A care order made under the Children Act 1989 does not constitute detention for the purposes of habeas corpus, and the remedy of habeas corpus is not available to challenge the lawfulness of such an order - **The Father v. Worcestershire County Council** [2025] UKSC 1

Brief Facts

The Appellant [father of two children] in this appeal, applied for a writ of habeas corpus in March 2024 to seek the release of his two children from the custody of Worcestershire County Council (Council). The children were placed in foster care under a Care Order issued by a District Judge – D.J. Solomon in the Family Court on 09.06.2023, pursuant to Section 31 of the Children Act 1989. This Care Order granted the Council parental responsibility for the children, allowing them to be placed with foster carers. The Appellant contended that the children were unlawfully detained by the Council and challenged the legality of the Care Order on several grounds.

The Appellant raised three primary arguments: first, that the children were detained by virtue of the Care Order; second, that the Care Order was unlawful because it was not initiated by a local authority as required by Section 31(1) of the Children Act 1989; and third, that the order was made without jurisdiction because the threshold conditions under Section 31(2)[88] were not met. Contrarily, the arguments of the Council, among others, were that the Care Order was appropriate and that the Children were not being detained as argued by the Appellant.

On 15.04.2024, the High Court dismissed the Appellant's application for a writ of habeas corpus, holding that the appropriate course of action was for the father to appeal the Care Order, and that the application for the writ of habeas corpus was "inappropriate" and "wrong". Upon appeal, the Court of Appeal determined that the High Court hearing was procedurally unfair and that the Judge did not give proper reasons and consequently set aside the Care Order on these grounds. However, the Court of Appeal proceeded to reconsider the issues presented by the Appellant and upon reconsideration, the Court of Appeal dismissed the Appellant's application, citing two grounds.

> ***…that the order was made without jurisdiction because the threshold conditions under Section 31(2) were not met. Contrarily, the arguments of the Council, among others, were that the Care Order was appropriate and that the Children were not being detained as argued by the Appellant.***

88. That is, regarding the children suffering or likelihood of them suffering significant harm and that attribution of that harm.

Firstly, that the application for a writ of habeas corpus was not the correct procedural mechanism to challenge the Care Order; and secondly, that the children were not being detained as argued. The father subsequently appealed to the Supreme Court. The main issue at the Supreme Court was whether an application for habeas corpus is an appropriate and legitimate procedure to use to challenge the Care Order, notwithstanding other procedural avenues available to do so.

Decision of the Supreme Court

The Supreme Court ultimately dismissed the father's appeal, affirming that the children were not detained in the legal sense and that habeas corpus was not the appropriate remedy for challenging the care order. The Supreme Court was of the view that the ordinary exercise of parental responsibility by a local authority pursuant to a care order, or the exercise of delegated authority by foster parents, does not amount to a restriction on a child's liberty that would amount to detention and thus trigger the applicability of habeas corpus. The Supreme Court, in essence, agreed with the Council's contention that the children were living in a normative family environment with foster carers, rather than being detained. The Court stated that: *"a child living with foster parents under a care order is not detained but is simply living in the same type of domestic setting as any other child of their age would be. That is not the kind of detention at which the writ of habeas corpus is aimed."*

The Court emphasized that the correct procedural route for contesting such orders is through appeal or application for discharge under section 39(1) of the Children Act 1989. The Supreme Court went on to consider the viability of invoking the writ of habeas corpus in the event that the children were deemed to be detained. Following some decided cases on the point, the Supreme Court arrived at the conclusion that the remedy of habeas corpus would not be applicable even if the children were deemed to be detained. The Supreme Court held that, in proceedings for habeas corpus, the legality of a care order assumes relevance only in circumstances where the order explicitly authorizes the detention of a child or where, pursuant to the order, a local authority, in the exercise of parental responsibility, may validly consent to the deprivation of a child's liberty, thereby constituting detention.

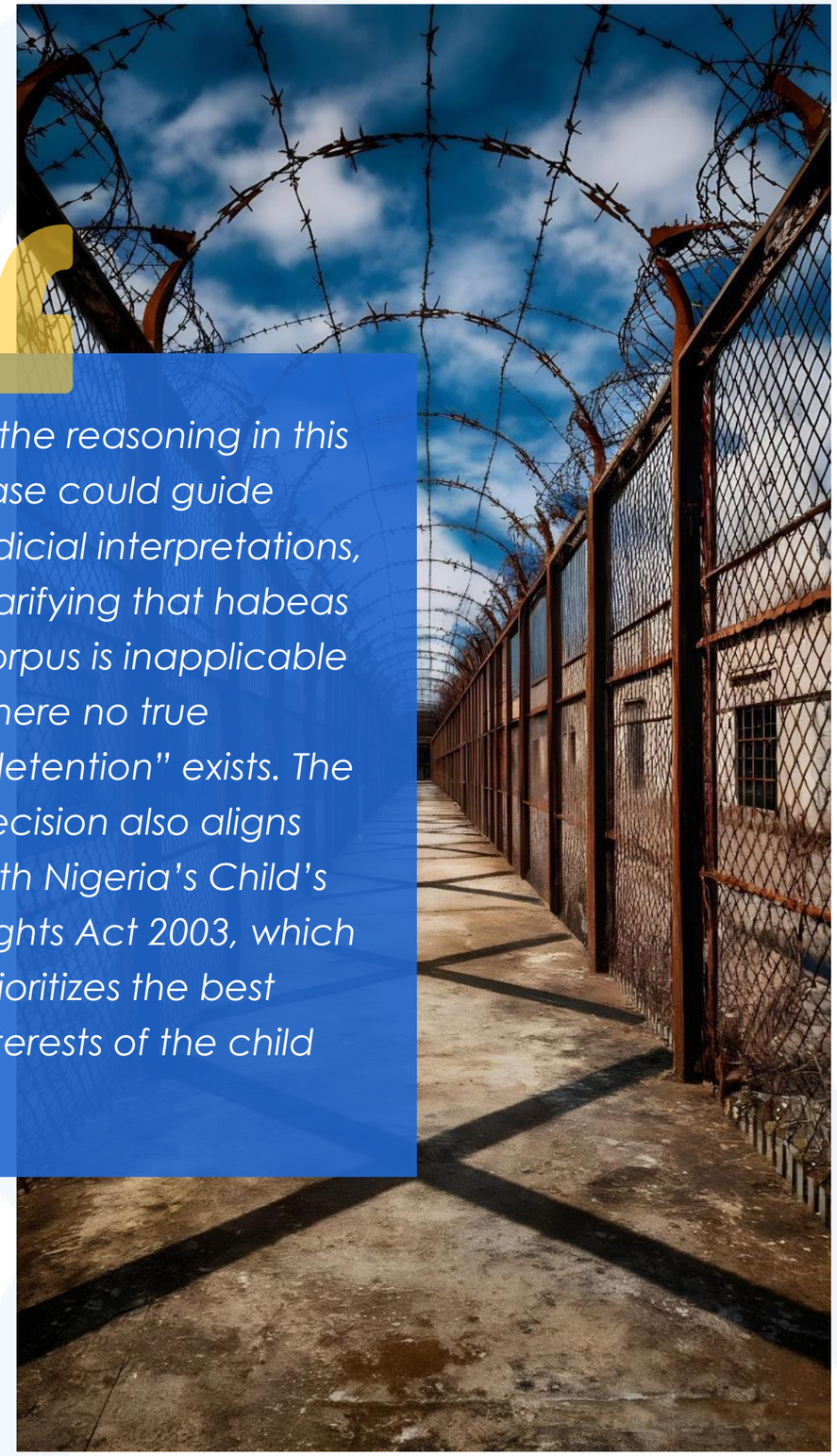
Interestingly, the Supreme Court recognized that in extreme or unusual circumstances, where a local authority or foster parents improperly exercise parental responsibility or delegated authority, respectively, such actions may culminate in the deprivation of a child's liberty, thereby constituting detention. Hence, in such exceptional cases, the writ of habeas corpus would provide an appropriate remedy. However, the resultant order would specifically direct the release of the child from the unauthorized detention, rather than invalidating or terminating the care order in its entirety. However, in the case, it was the view of the Supreme Court that there were no extreme or unusual circumstances to come to that conclusion and thus allow habeas corpus to succeed.

Commentary

This case underscores the limits of habeas corpus as a remedy in child welfare proceedings, reinforcing that care orders issued under statutory frameworks do not equate to unlawful detention. It highlights a crucial distinction: while habeas corpus is a powerful tool for challenging state-imposed restrictions on liberty, it is not an all-encompassing remedy for contesting family court decisions made in the best interests of a child.

For Nigeria, where habeas corpus serves as a key safeguard against arbitrary detention under Section 35 of the 1999 Constitution, this decision offers valuable insight into its potential (and limits) in family law matters. Nigerian courts have not widely considered habeas corpus in the context of care orders or child custody disputes. However, the reasoning in this case could guide judicial interpretations, clarifying that habeas corpus is inapplicable where no true "detention" exists. The decision also aligns with Nigeria's Child's Rights Act 2003, which prioritizes the best interests of the child. If Nigerian courts were faced with a similar case, they might rely on this framework to emphasize that placing a child in alternative care under lawful authority does not constitute detention warranting habeas corpus relief. Instead, disputes over custody or care orders should be addressed through proper family law channels, such as appeals or applications for discharge.

Additionally, the case raises an important procedural point: while habeas corpus remains a fundamental safeguard against wrongful confinement, it should not be used as a substitute for statutory remedies designed to resolve family law disputes. This distinction could prevent the misuse of the writ in cases where the appropriate legal avenue lies in contesting the underlying order through established judicial processes. Ultimately, this ruling reinforces a structured approach to child welfare litigation, ensuring that legal challenges to care orders follow the appropriate procedural pathways rather than being framed as liberty deprivation claims under habeas corpus.



…the reasoning in this case could guide judicial interpretations, clarifying that habeas corpus is inapplicable where no true "detention" exists. The decision also aligns with Nigeria's Child's Rights Act 2003, which prioritizes the best interests of the child

An Arbitrator's refusal to grant an adjournment is not a ground for setting aside a Final Award when parties fail to act diligently - **Collins and 4 Ors v. Wind Energy Limited** [2025] EWHC 4

Brief Facts

This action was commenced by the Claimants to set aside a Final Award in LCIA Arbitration No. 225475 on the ground of serious procedural irregularity under section 68 of the Arbitration Act 1996 ("**AA**"). The Claimants argued, among other things, that the arbitrator's refusal to grant a reasonably long adjournment amounted to a breach of duty under section 33 of the AA which mandates fairness and impartiality in proceedings.

The Claimants submitted a Request for Arbitration on 20.04. 2022 concerning whether a letter of indemnity was valid and binding and whether the Defendant, Wind Energy Limited, was in breach of the letter of indemnity by failing to cover the Claimants' ongoing costs of related litigation which amounted to approximately £850 million due to joint liability in related litigation.

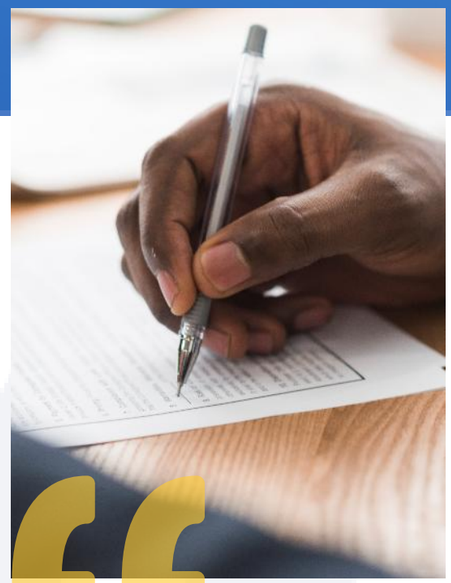
The arbitration proceedings were closely related to a prior litigation matter initiated by Mr. Suppipat, a Thai Businessman and associated companies. The litigation concerned, among other things, whether he had been deprived of his rights in relation to the Defendant [Wind Energy Ltd – "**WEL**"] by the Claimants and others.

This action resulted in the judgment of Calver J in Suppipat v Narongdej [2023] EWHC 1988 (Comm), delivered on 31.07. 2023 (the **Suppipat Judgment**), in which the Claimants were found jointly and severally liable for approximately £850 million. Following this, a post-judgment Freezing Order was issued against the Claimants on 31.07. 2023, restricting their assets.

A sole Arbitrator was appointed on 05.08.2022 and issued a procedural order regarding the conduct of the arbitration on 30.09.2022. In the arbitration proceedings, the Claimants posited that their dismissal from their positions at WEL by the other board members, coupled with the prevention of WEL from reimbursing their legal costs incurred during the prior litigation by Mr. Suppipat, constituted a deliberate attempt to compromise their ability to defend themselves in the litigation. Subsequently, the Claimants, through their counsel, Signature Litigation, sought a stay of arbitration claiming that WEL had brought a parallel action in Thailand in respect of the same subject matter and the impending judgment would impact on their claimed losses, but did not mention the Freezing Order.

The Arbitrator refused the application. The next day, on 01.08. 2023, Signature Litigation informed the Arbitrator that it was no longer instructed in the arbitration with immediate effect. The Claimants then wrote to the Arbitrator, stating that they were in the process of securing new legal representation and requesting a variation of the arbitration timetable. This request was denied.

The Claimants first informed the Arbitrator about the Freezing Order on 28.08. 2023—two weeks before the scheduled hearing—when they sought an adjournment.



…breach of the letter of indemnity by failing to cover the Claimants' ongoing costs of related litigation which amounted to approximately £850 million due to joint liability in related litigation.

> ***...the trial judge was wrong to refuse an adjournment to allow the defendant in a libel case time to obtain legal representation but ultimately dismissed the appeal due to uncertainty about the source of funding for legal representation.***

The Arbitrator granted a short adjournment in response to this request. On 13.09. 2023, during a separate litigation hearing, the Claimants orally applied for permission to use certain UK Gilts for arbitration-related expenses. However, the Court directed them to formally apply for any variation of the Freezing Order.

Subsequently, the Claimants requested another adjournment of the arbitration hearing until "the issue of the Freezing Order is resolved." The Arbitrator refused this request, noting that there was no evidence of a pending application to vary the Freezing Order. The Claimants later informed the Arbitrator that Ms. Collins was not in an emotional state to attend the hearing and that Mr. Lakhaney would only be available for cross-examination virtually. When the hearing proceeded on 04.10.2023, the Claimants were absent and unrepresented. Again, on 06.10.2023, the Claimants were not present or represented, except for Mr. Lakhaney, who was cross-examined remotely.

On 17.11.2023, the Arbitrator issued her Award, rejecting the Claimants' claim and allowing the Defendant's counterclaim. The issue for determination before the Court was whether the failure of an Arbitrator to grant an adjournment amounts to a breach of duty under section 33 of the Arbitration Act 1996 and form grounds for setting aside an arbitral award?

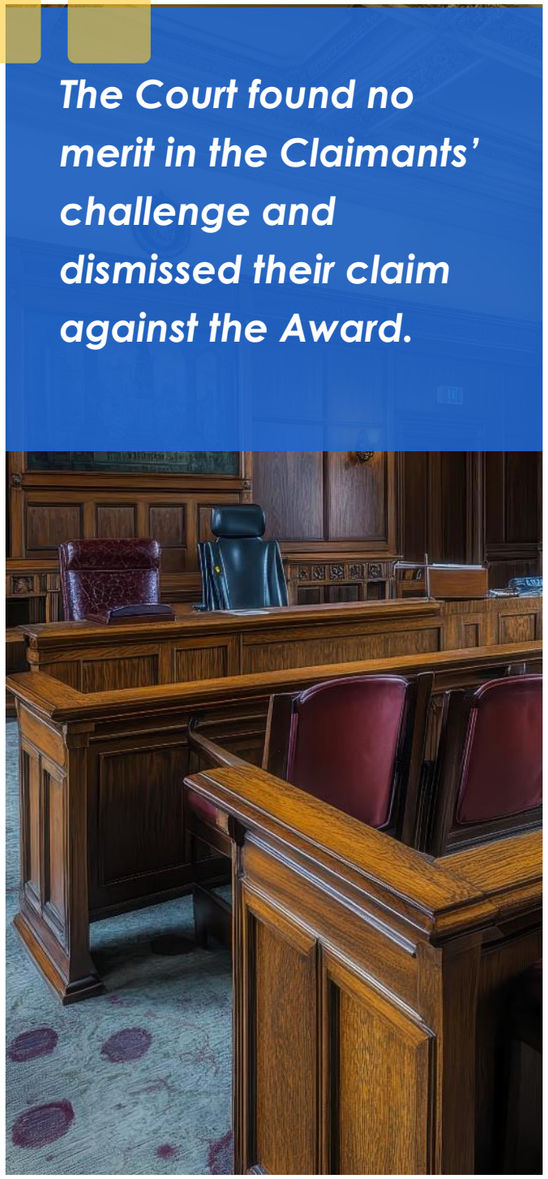
Decision of the Court

The Court considered section 33 of the Act, which mandates an Arbitrator to act fairly and impartially between the parties, giving each party a reasonable opportunity to present its case and respond to its opponent's case, as well as section 68 on challenging an award. The Court also considered Article 14 of the LCIA Rules, which requires an arbitrator to act fairly, provide each party with a reasonable opportunity to present its case and respond to its opponent's case, and adopt procedures suited to the circumstances of the arbitration while avoiding unnecessary delay and expense.

The Court cited the Court of Appeal's decision in Terluk v. Berezovsky [2010] EWCA Civ 1345, where it found an arguable case that the trial judge was wrong to refuse an adjournment to allow the defendant in a libel case time to obtain legal representation but ultimately dismissed the appeal due to uncertainty about the source of funding for legal representation.

Considering the facts before it, the Court rejected the Claimants' argument that the Arbitrator breached her duty under section 33 of the AA by granting a short adjournment of the evidential hearing from 11.09.2023 to 04.10. 2023 in response to their application of 28.08. 2023 and then proceeding with the hearing on 04.10. 2023 despite their requests for reconsideration, citing their continued difficulties in securing legal representation and the 1st Claimant's mental health issues. The Court found that the Arbitrator acted within her discretion in denying the adjournment request. The Claimants failed to demonstrate that refusing this request would lead to a failure of justice, especially since the 1st Claimant's health issues were communicated at a late stage.

> *The Court found no merit in the Claimants' challenge and dismissed their claim against the Award.*



The Court further noted that the Claimants failed to raise the issue of the Freezing Order and its impact on their ability to secure representation until the last minute. It also emphasized that the Arbitrator had a duty to prevent unnecessary delay and was right not to grant a lengthy or open-ended adjournment. Even after their adjournment request was denied, the Claimants still failed to formally apply for a variation of the Freezing Order or provide any indication of when such a variation might be secured, demonstrating a lack of diligence. The Court also noted that the email informing the Arbitrator of the 1st Claimant's ill health was not a request for adjournment, nor was it interpreted as such, and rightly so.

Ultimately, the Court found that the Arbitrator's decision to proceed with the hearing on 04.10.2023 was fair and consistent with her duties under section 33 of the AA and Article 14 of the LCIA Rules. The Claimants had ample opportunity to address any issues arising from the Freezing Order and secure legal representation but failed to make any realistic efforts to do so. The Court found no merit in the Claimants' challenge and dismissed their claim against the Award.

Commentary

The case underscores the importance of diligence in arbitration proceedings and highlights how delays or failures on a party's part can impact their ability to contest awards effectively. The court's decision also reinforces Arbitrators' discretion in managing proceedings while ensuring fairness under statutory obligations.

This also emphasizes the importance of procedural fairness, a principle that is also central to Nigerian arbitration law under the Arbitration and Mediation Act (AMA) 2023. The decision on the arbitrator's discretion to deny an adjournment request due to the Claimants' late communication parallels Nigerian courts' approaches, which uphold arbitrators' authority unless there is clear evidence of bias or unfairness. This reinforces the need for parties in arbitration to act diligently and communicate effectively in the course of proceedings.

Payments made by BP to Royal Bank of Canada for rights to oil extracted from the UK Continental Shelf do not constitute income from 'immovable property' under the UK-Canada Double Taxation Convention - **Royal Bank of Canada v. Commissioners for His Majesty's Revenue and Customs** [2025] UKSC 2

Brief Facts

The dispute in this case revolves around payments made by BP Petroleum Development Ltd ("BP) to the Royal Bank of Canada (**RBC**) for rights to oil extracted from the United Kingdom (UK) Continental Shelf. RBC is a corporation duly incorporated and tax-resident in Canada, with its registered office situated within the territorial boundaries of Canada. RBC engages in the provision of banking services within Canada, as well as in select international jurisdictions. Notably, RBC maintains a branch office in the London, UK.

In the 1980s, RBC extended a loan facility to Sulpetro Limited ("**Sulpetro**"), a Canadian oil exploration and production company with global operations. The loan facility by RBC was made at its head office in Canada. One of Sulpetro's subsidiaries, Sulpetro (UK) Limited ("**SUKL**"), had been granted a licence to undertake oil exploration and exploitation activities in the Buchan field, situated in the North Sea, UK. Pursuant to the agreement between Sulpetro and SUKL, Sulpetro undertook to bear the costs associated with exploration and exploitation activities in the Buchan field, in exchange for receiving the entirety of the oil extracted from the field.

In 1986, SUKL was divested to BP, along with Sulpetro's rights to receive oil from SUKL. As part of the sale agreement, BP undertook to make certain payments to Sulpetro, including "royalty" payments (the "**Payments**") in respect of production activities undertaken at the Buchan field. The Payments were calculated as approximately 50% of the amount by which the market value of each barrel of oil produced at the Buchan field exceeded US$20.

In the 1990s, Sulpetro encountered financial difficulties, ultimately leading to its receivership. Pursuant to a court order, RBC, as a creditor of Sulpetro, became entitled to receive the Payments that had been payable to Sulpetro. Subsequent to Sulpetro's receivership, BP transferred its interest in the Buchan field to Talisman Energy Inc. ("**Talisman**"), which was later acquired by Repsol. Consequently, during the tax years pertinent to the dispute (specifically, the periods from 2008 to 2015), the Payments were made by Talisman to RBC.

> *… the Court recognised it as a statutory instrument designed to operationalise the constitutional commitment to protect citizens and promote social and economic justice.*

> ***The issue before the Supreme Court revolved around the proper characterization of payments made by BP to RBC, pertaining to the rights to oil extracted from the UK Continental Shelf, for the purposes of the DTC.***

Commissioners for His Majesty's Revenue and Customs ("**HMRC**") sought to tax the Payments in the UK under Article 6(2) of the UK-Canada Double Taxation Convention ("**DTC**"), which grants taxing rights over income from "immovable property," including rights to natural resources. Article 6(2) of the DTC provides a comprehensive definition of "immovable property", which encompasses, inter alia, *"rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources."*

Now, pursuant to Article 6 of the DTC, income derived from immovable property situated in the UK may be subject to taxation in the UK, notwithstanding the tax residency of the income recipient in Canada. This provision enables the UK to assert taxing rights over income generated by immovable property located within its territorial boundaries. HMRC argued that Sulpetro held economic ownership of the oil through its funding and contractual rights, creating a taxable "right to work" under Article 6(2) of the DTC.

The payments were intrinsically tied to oil extraction, making them UK-source income and thus taxable by UK. RBC argued that the payments were taxable in Canada, asserting they arose from a financial arrangement, not a "right to work" the oil field. That only SUKL legally held the UK extraction licence; Sulpetro was a financial investor, not an operator. Thus, the payments reflected a debt repayment arrangement, not compensation for resource exploitation.

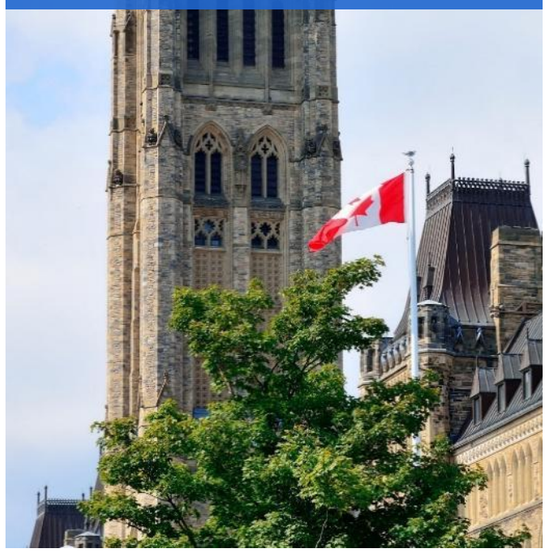
Both the First-tier Tribunal and Upper Tribunal held in favour of the HMRC. However, the Court of Appeal, in a unanimous decision delivered by Lady Justice Falk (with whom Lady Justice Asplin and Lord Justice Nugee concurred), overturned the decisions of the First-tier Tribunal and the Upper Tribunal. The Court of Appeal held that the Payments did not constitute "income from immovable property" within the meaning of the DTC but, rather fell within the purview of the "business profits" Article. Consequently, the Court of Appeal held that as the Payments were not attributable to a permanent establishment of RBC in the UK (as defined in the Treaty), the DTC conferred an exclusive taxing right over the Payments to Canada. Dissatisfied with the decision of the Court of Appeal, HRMC appealed to the Supreme Court.

The issue before the Supreme Court revolved around the proper characterization of payments made by BP to RBC, pertaining to the rights to oil extracted from the UK Continental Shelf, for the purposes of the DTC. Specifically, on whether these payments should be classified as "income from immovable property" within the meaning of Article 6 of the DTC.

Decision of the Court

The UK Supreme Court, in a 4-1 decision, ultimately decided that the Payments made by BP to RBC for the rights to extract oil from the UK Continental Shelf did not constitute income from 'immovable property' under the DTC. The Supreme Court held that the Payments were for financial rights rather than directly tied to the physical property.

The Supreme Court further held that the Payments were structured as financial obligations linked to oil sales, not as royalties or consideration for granting extraction rights



Therefore, these Payments were not subject to the same tax treatment as income derived from immovable property. The Supreme Court justified its decision by emphasizing the legal distinction between financial arrangements and operational rights under Article 6(2) of the DTC. In the view of the Supreme Court, Article 6(2) explicitly ties taxing rights to “immovable property,” which the Court defined narrowly as rights embedded in licences or property ownership, not financial derivatives.

The Supreme Court rejected HMRC’s argument that Sulpetro held an indirect “right to work” through its financial support of SUKL. It stressed that Article 6(2) requires direct legal entitlement to exploit resources, not economic influence or contractual benefits. That SUKL alone held the UK government-issued licence to extract oil, making it the sole entity with operational rights, and Sulpetro had no legal authority to explore, extract, or manage the Buchan Field, despite funding its subsidiary. The Supreme Court further held that the Payments were structured as financial obligations linked to oil sales, not as royalties or consideration for granting extraction rights. Since Sulpetro lacked the legal licence to work the field, its agreement with BP did not confer a taxable "right to work" under Article 6(2) of the DTC. Moreso, the Court held that the Payments were rightfully taxable in Canada, where RBC resided, and fell outside the UK’s jurisdiction under the DTC.

The Supreme Court emphasized that mere economic interest in resources (e.g., profit-sharing) does not equate to a legal "right to work" under the DTC. The licence held by SUKL was distinct from Sulpetro’s financial arrangements with RBC. In essence, the majority applied a "common sense" approach, requiring a direct nexus between payments and immovable property.

Dissenting Judgment

However, Lord Briggs dissented, arguing that the majority erred by focusing solely on legal ownership of the oil extraction licence held by SUKL while ignoring the economic reality of Sulpetro’s control. He held that the Payments were sufficiently linked to resource exploitation and thus should be taxable in UK.

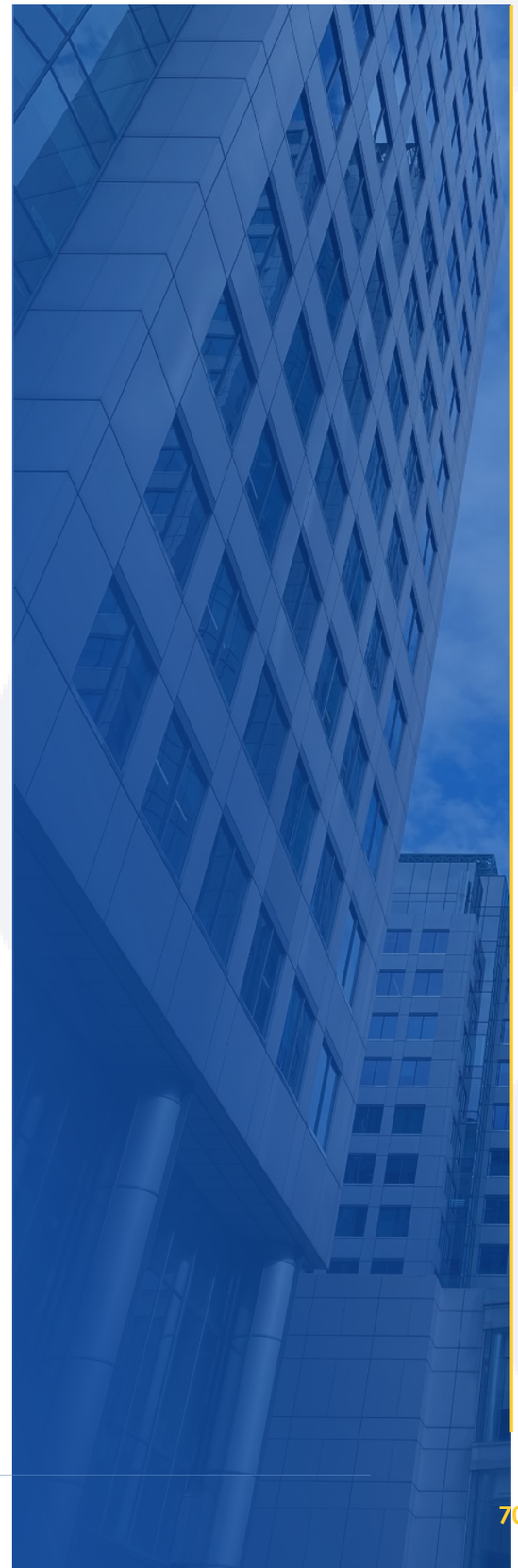
Commentary

This decision reinforces the importance of a strict legal interpretation of taxation treaties in cross-border transactions. By rejecting HMRC's argument that Sulpetro's financial interest in the Buchan Field constituted a "right to work" under Article 6(2) of the UK-Canada DTC, the Court set a precedent that taxation of income from natural resources must be based on direct legal ownership and not on broader economic influence.

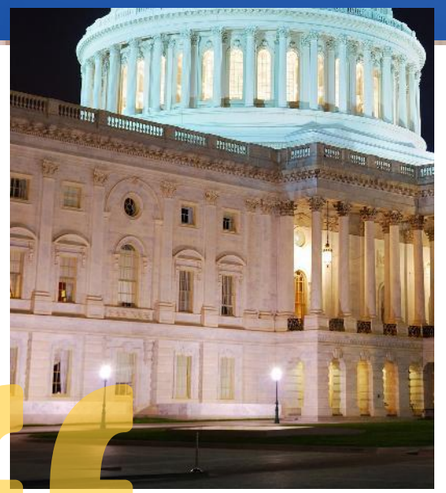
This ruling is significant for international financial institutions and businesses engaged in cross-border transactions, including those operating in Nigeria. It highlights the necessity of clearly structuring financial arrangements to prevent unintended tax liabilities in foreign jurisdictions. Nigerian tax authorities and courts may draw insights from this case when interpreting double taxation treaties (DTTs), particularly where disputes arise over whether income derives from financial arrangements or the exploitation of natural resources.

Moreover, the case underscores the limits of aggressive tax claims based on economic substance rather than strict legal entitlement. Nigeria, like the UK, must balance its tax enforcement powers with the need to uphold treaty commitments. The decision serves as a reminder that tax authorities cannot extend their reach beyond what is expressly provided in treaties. It also highlights the importance of precise legal drafting in contracts and financial agreements to avoid tax disputes across jurisdictions.

For Nigerian businesses and financial institutions engaged in international trade and investment, the ruling underscores the necessity of structuring cross-border transactions carefully, ensuring they align with existing treaty frameworks to mitigate potential tax exposure. Additionally, Nigerian courts should recognize and respect the principles of international comity and cooperation in tax disputes, reinforcing the credibility of Nigeria's treaty obligations and fostering a stable business environment.



Tariffs imposed by President Trump under the International Emergency Economic Powers Act on imports from China, Mexico, and Canada etc., are ultra vires the powers conferred on the President by the Act and therefore illegal – **V.O.S Selections v. United States**.



...under IEEPA includes the power to impose tariffs. They referenced statutes such as the Trading with the Enemy Act (TWEA), which had been interpreted to allow for such executive action.

Brief Facts

The Plaintiffs filed an action on 14.04.2025, against the United States, the President of United States, and various government agencies and officials (**the Defendants**). The suit challenged the legality of the Executive Orders 14257 and 14266, through which the President imposed sweeping import tariffs.

Specifically, Executive Order 14257 invoked the International Emergency Economic Powers Act 1977 (**IEEPA**) to implement a 10 percent ad valorem duty on all imports, with increased rates ranging from 11 percent to as high as 50 percent for 57 designated countries. The challenged tariffs, dubbed "Liberation Day" tariffs, were imposed on a wide range of products from countries including China, Canada, and Mexico, via Executive Order 14257 announced on 02.04.2025.

The Plaintiffs contended that IEEPA does not authorise the President to impose tariffs at all, arguing that the statute's language, specifically the phrase "regulate importation" is too vague and lacks the clear legislative mandate necessary to delegate such sweeping economic power. They further argued that interpreting IEEPA to allow the President to unilaterally impose tariffs would violate two foundational constitutional principles: the nondelegation doctrine and the major questions doctrine.

In response, the Defendant argued that the authority to "regulate importation" under IEEPA includes the power to impose tariffs. They referenced statutes such as the Trading with the Enemy Act (**TWEA**), which had been interpreted to allow for such executive action.

Moreover, the Defendant emphasized that IEEPA includes safeguards such as requiring a formal declaration of a national emergency, limiting the duration of emergency powers to one year unless renewed, and restricting the scope of action to foreign interests or property.

The Plaintiffs sought a temporary restraining order (**TRO**), a preliminary injunction, and summary judgment. Although the court initially denied the TRO, it proceeded to evaluate the case on its merits.

The major issue that was determined by the United States Court of International Trade was whether IEEPA granted the President the authority to impose broad, long-term tariffs in response to economic concerns such as trade deficits.

Decision of the Court

In its decision, the Court rejected the Defendants' arguments and agreed with the Plaintiffs. The Court held that the phrase "regulate importation" in IEEPA does not authorize the President to impose tariffs of any magnitude at will. It emphasized that interpreting IEEPA to confer such broad powers would amount to an unconstitutional delegation of legislative authority. Citing authorities such as *Yoshida II*,[89] the Court concluded that any such contrary interpretation would undermine the constitutional separation of powers by allowing the executive branch to exercise legislative functions without clear congressional direction.

The Court further noted that IEEPA was enacted in 1977 precisely to narrow the President's emergency economic powers, especially in contrast to the broader powers once granted under TWEA and this legislative history reinforced the conclusion that Congress intended to limit, not expand, executive authority over international trade.

Significantly, the Court pointed to Section 122 of the Trade Act of 1974 and held that by enacting this statute, Congress made clear that even substantial trade imbalances do not warrant emergency powers under IEEPA but instead must be addressed through the limited procedures outlined in Section 122. The court also clarified that the concept of a "balance-of-payments deficit" refers not to an overall imbalance but to deficits in specific components, such as the trade of goods. Since trade deficits fall squarely within this category, the President's actions—imposing indefinite tariffs in response to a trade deficit—should have been governed by Section 122, not IEEPA.

Ultimately, the Court found that the President's imposition of the Worldwide and Retaliatory Tariffs exceeded the authority granted under IEEPA and failed to comply with the statutory framework of Section 122. The tariffs were, therefore, deemed ultra vires, beyond the scope of lawful authority and unlawful. Consequently, the Plaintiffs' Motion for Summary Judgment were granted, and their Motions for Preliminary Injunction were denied as being moot.

Commentary

This decision affirms the constitutional limits on executive power in U.S. economic governance, particularly in the context of international trade. It reinforces the principle that the imposition of tariffs, especially on a broad and indefinite scale, falls within Congress's exclusive legislative competence and cannot be justified under a general emergency statute like IEEPA. By invoking both the nondelegation and major questions doctrines, the Court signalled that sweeping economic policies require explicit congressional authorisation and cannot rest on vague statutory language or executive discretion.

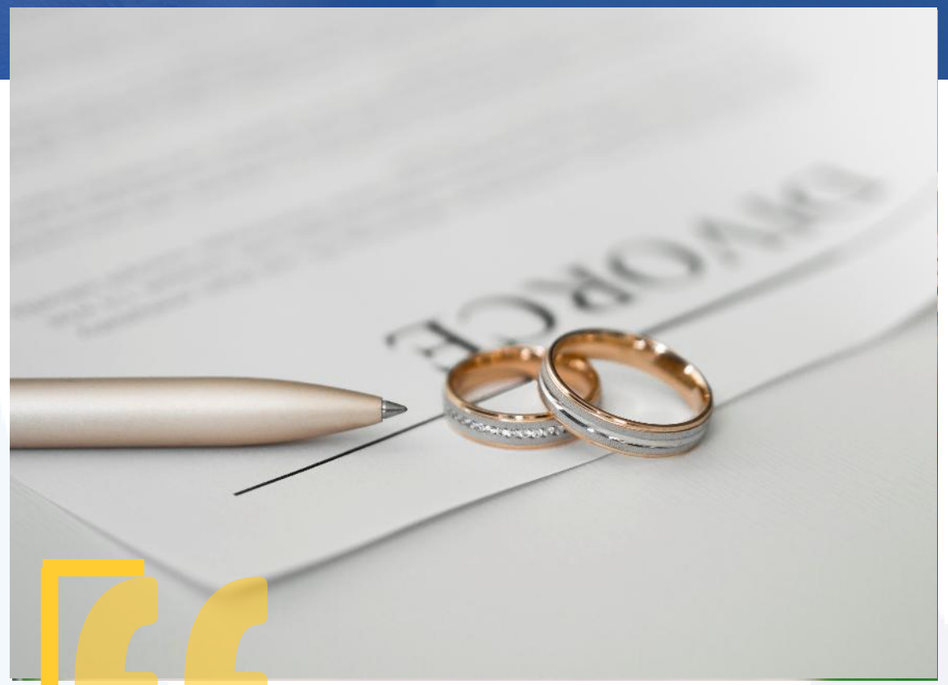
The ruling distinguishes IEEPA from other trade-specific statutes such as Section 122 of the Trade Act of 1974, making clear that emergency powers cannot be repurposed into instruments of routine economic policy. It is also a strong reassertion of the judicial role in reviewing high-impact executive orders, even where economic and diplomatic interests are involved.

For observers in jurisdictions like Nigeria, the case serves as a compelling comparative precedent on the judiciary's role in preserving the constitutional separation of powers, especially in economic regulation. Nigerian courts have also shown readiness to invalidate executive action that exceeds constitutional or statutory limits, as seen in A.G. Federation v. A.G. Abia State & Ors [2024] LPELR-62576.

It is noteworthy that the decision is under appeal, and the Federal Circuit has stayed the injunction pending an expedited hearing—a procedural reminder that major constitutional rulings may remain in flux.

89. United States v. Yoshida Int'l. Inc., 526. F.2d 560, 584 (C.C.P.A. 1975)

The decision of the French Court of Appeal, which held the applicant solely responsible for the breakdown of her marriage due to her refusal to engage in sexual relations violates applicant's rights to private life, bodily autonomy, and sexual freedom under the European Convention on Human Rights – **H.W. v. France (Application No. 13805/21)**



Brief Facts

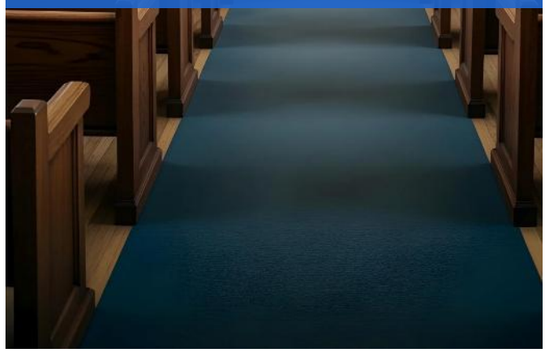
On 09.07.2015, H.W., a French woman born in 1956 (the "Applicant") summoned her husband for divorce on the ground of fault. She argued that her husband had prioritized his professional career to the detriment of their family life and that he had been irascible, violent and hurtful. Her husband counterclaimed that the divorce should be pronounced solely on the grounds that the applicant had evaded marital duty for several years and that she had breached the duty of mutual respect between spouses by making slanderous accusations against him. In the alternative, he filed for divorce on the grounds of permanent alteration of the marital bond.

In a judgment delivered on 13.07.2018, the family affairs judge of the Versailles Regional Court held that none of the complaints alleged by the spouses was substantiated and that the divorce could not be pronounced for fault. As regards, in particular, the alleged breach of marital duty, it considered that the Applicant's health problems were such as to justify the long-term absence of sexuality within the couple. The Judge pronounced the divorce on the grounds of permanent alteration of the marital bond after noting that the cohabitation between the spouses had ceased for more than two years on the date of the divorce summon. The Applicant appealed against that judgment. This decision was later overturned by the Versailles Court of Appeal, which deemed her refusal of "intimate relations" as the sole fault justifying divorce, a position upheld by the French Court of Cassation. The Applicant then approached the European Courts of Human Right.

At the core of the case was the question of *whether to hold a woman legally at fault in divorce proceedings for declining to engage in sexual relations with her husband – is not a violation of her right to privacy guaranteed under Article 8 of the Convention*

> ***The Judge pronounced the divorce on the grounds of permanent alteration of the marital bond after noting that the cohabitation between the spouses had ceased for more than two years on the date of the divorce summon. The Applicant appealed against that judgment.***

The ECtHR observed that the domestic courts' reliance on the Applicant's sexual conduct as the basis for attributing fault and granting the divorce necessarily interfered with her right to sexual autonomy and bodily integrity



Decision of the court

The European Court of Human Rights (**ECtHR**) affirmed that the concept of "private life" under Article 8 of the European Convention on Human Rights (**ECHR**) is broad in scope, including the physical and psychological integrity of a person, gender identification, name, and sexual life. It highlighted that the notion of personal autonomy is a core component of the protections afforded by Article 8. In the context of sexual life, the Court emphasized that sexual freedom and bodily autonomy are essential aspects of an individual's identity and dignity. Importantly, it noted that Article 8 not only protects individuals against arbitrary interference by public authorities but also places positive obligations on the State to secure respect for private life even in relationships between private individuals.

According to the Court, any interference with an individual's private life must meet three essential conditions under the Convention: it must be "in accordance with the law", pursue one or more legitimate aims set out in Article 8(2), and be "necessary in a democratic society". The ECtHR clarified that the requirement that Interference be "in accordance with the law" encompasses not only the existence of a legal basis in domestic law but also the quality of that law: it must be accessible to the person concerned, foreseeable as to its effects, and compatible with the rule of law. Furthermore, the list of legitimate aims justifying interference with private life is exhaustive, and any such interference must be interpreted narrowly and justified convincingly. The principle of proportionality and the need for a fair balance between individual rights and societal interests are central to the assessment of necessity. The ECtHR explained that while states enjoy a "margin of appreciation" in such matters, the breadth of that discretion varies with context-being wider when the matter involves sensitive moral or ethical judgments or balancing of conflicting Convention rights, and narrower when intimate, personal freedoms such as sexual autonomy are at stake.

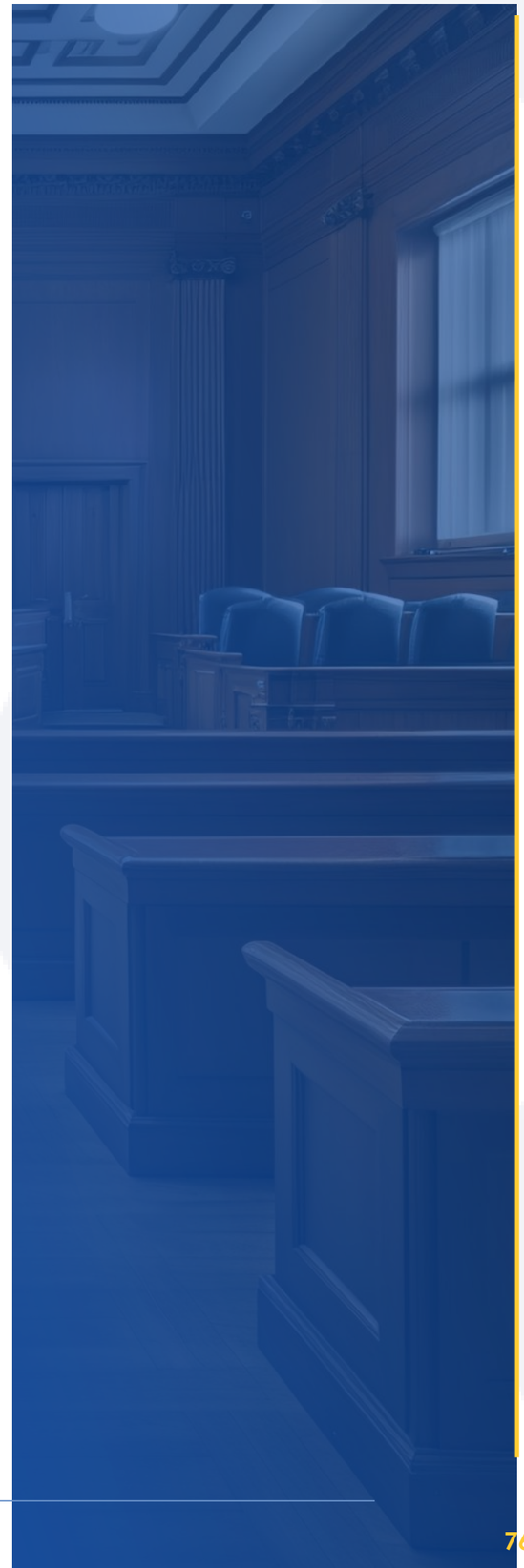
Turning to the facts it noted that the Applicant did not object to the granting of the divorce itself—indeed, she had also sought a divorce—but took issue with the legal reasoning and grounds used to justify the decision. Specifically, the finding that her refusal to engage in sexual relations constituted a grave breach of marital duty. The ECtHR observed that the domestic courts' reliance on the Applicant's sexual conduct as the basis for attributing fault and granting the divorce necessarily interfered with her right to sexual autonomy and bodily integrity. Even if the financial consequences of divorce are now largely detached from fault-based considerations in many jurisdictions, the symbolic and moral weight of such judicial findings still has a profound impact. The fact that the Court of Appeal explicitly characterized the Applicant's refusal to engage in sexual relations as a "serious and renewed violation" of marital obligations that made cohabitation intolerable was particularly concerning. This reasoning reinforced traditional, patriarchal expectations about spousal duties and imposed a form of state-sanctioned judgment on private and highly personal conduct. The ECtHR found that this amounted to an interference with her Article 8 rights attributable to the state's negative obligations.

> *…the principle that prolonged refusal to engage in sexual relations, absent a justified reason such as health concerns, could constitute a breach of marital obligations sufficient to ground a divorce petition*

The domestic legal framework in question, namely Articles 229 and 242 of the Civil Code, permitted divorce on fault-based grounds, specifically where one spouse had committed a serious or renewed breach of marital duties that rendered continued cohabitation intolerable. The ECtHR acknowledged that the Civil Code did not expressly impose a legal obligation to engage in sexual intercourse; however, it found that the domestic case-law had consistently interpreted the marital relationship as including an implied conjugal duty. This line of jurisprudence, extending over several decades, had developed the principle that prolonged refusal to engage in sexual relations, absent a justified reason such as health concerns, could constitute a breach of marital obligations sufficient to ground a divorce petition. On this basis, the Court concluded that the legal position was sufficiently accessible and foreseeable for the Applicant, thus satisfying the requirement that the interference was "in accordance with the law."

With respect to the legitimacy of the aim pursued, the ECtHR accepted that the State's interest in protecting the rights and freedoms of others—namely, the spouse seeking divorce—was a legitimate aim within the meaning of Article 8(2). In particular, it acknowledged that allowing individuals to end marriages that had become intolerable, due to a serious breakdown in the marital relationship, serves the legitimate function of protecting personal autonomy and dignity.

However, the crucial question remained whether the interference with the Applicant's rights was necessary and proportionate in the specific circumstances of the case. Here, the Court emphasized that matters relating to intimate sexual conduct fall within the most personal and private sphere of human life and are entitled to the highest level of protection under the Convention. The narrower margin of appreciation applied in this context meant that the State bore a heightened responsibility to justify any interference with those rights. In assessing the proportionality of the interference, the Court balanced the Applicant's right to sexual autonomy against her spouse's right to divorce. While it accepted that a legal framework that enables individuals to seek divorce for lack of intimacy may serve legitimate purposes, it found that the specific reasoning of the domestic courts unduly prioritized outdated notions of spousal duty over modern understandings of consent and bodily integrity. The ECtHR ultimately concluded that the imposition of a legal duty to engage in sexual relations within marriage, even implicitly, and the attribution of fault based on non-compliance with such a duty, failed to respect the applicant's right to physical and psychological integrity.



The ECtHR reiterated that any legal interpretation or judicial reasoning that disregards the principle of voluntary and mutual consent in sexual matters is incompatible with the values enshrined in the Convention. Therefore, that the grounds on which it was granted—relying on a perceived sexual obligation—violated Article 8. The Court thus found that the interference with the Applicant's right to respect for her private life was neither justified nor proportionate, and accordingly, a violation of the Convention had occurred.

Commentary

The judgment of the ECtHR marks a pivotal affirmation of bodily autonomy, consent, and sexual freedom within the institution of marriage, rejecting antiquated interpretations of "marital duty" that are incompatible with contemporary human rights standards. By overturning the domestic courts' fault attribution based on sexual conduct, the ECtHR rejected the notion that marriage imposes implicit obligations that compromise an individual's autonomy. The Court raised concerns about patriarchal biases in legal reasoning and stressed the need for any legal framework to prioritise voluntary consent and mutual agreement in intimate relationships.

Under Nigeria's Matrimonial Causes Act, a spouse may file for divorce on fault grounds such as unreasonable refusal to consummate, cruelty, desertion, adultery, etc. A Nigerian court, however, would scrutinize whether the refusal was reasonable, considering factors like health issues, abuse, or welfare needs, similar to French domestic consideration in H.W.'s case. While Nigerian courts acknowledge marital obligations, constitutional protections particularly sections 34 (Human dignity) and 35 (personal liberty) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) reinforce bodily autonomy. In an abusive context, compelling non-consensual sex may conflict with these protections.

"Man" and "Woman" under the Equality Act 2010 refer exclusively to biological sex, and not gender identity – For **Women Scotland Ltd v. The Scottish Ministers [2025] UKSC 16**

Brief Facts

The Appellant, For Women Scotland Ltd, a feminist advocacy organization, challenged revised statutory guidance, issued by the Scottish Ministers under the Gender Representation on Public Boards (Scotland) Act 2018. The guidance stated that "woman" under the Act includes not only biological women but also trans women with a Gender Recognition Certificate (GRC), based on the interpretation of section 9 of the Gender Recognition Act 2004 (GRA) and sections 11 and 212 of the Equality Act 2010.

The Appellant argued that this interpretation unlawfully redefined "woman" and exceeded devolved competence, as "sex" and the terms "man" and "woman" under the Equality Act 2010 refer to biological sex. The Appellant sought a declaration that the guidance was unlawful and an order for its rescission. The Scottish Ministers, supported by the Equality and Human Rights Commission, argued that a person with a GRC legally changes their sex for all purposes under section 9 of the GRA 2004 and is therefore a woman under the Equality Act.

The Appellant challenged the lawfulness of the Respondent's statutory guidance in the Outer House (one part of Scotland's Court of Session). On 13.12.2022, the Outer House dismissed the Appellant's petition. The Appellant appealed. On 01.11.2023, the Inner House (Scotland's appellate court) upheld the decision of the Outer House and dismissed the Appellant's appeal. The Appellant then appealed to the Supreme Court. The main issue that came up for determination was whether the words "man" and "woman" in the Equality Act 2010 refer to a person's "biological sex" or whether they also include a person's "acquired gender" under the Gender Recognition Act 2004 following the grant of a GRC.

Decision of the Court

The Supreme Court on 16.04.2025 found that references to "sex", "man", and "woman" in the Equality Act 2010 refer to biological sex and not to an individual's acquired gender through a GRC under the GRA 2004. The Supreme Court interpreted the Equality Act 2010 as designed to protect individuals based on biological sex and found no sufficient basis to override this through section 9(1) of the GRA 2004, particularly in the context of provisions specifically aimed at advancing equality for women.

The Court noted that section 9(1) GRA 2004 states that a person's gender becomes their acquired gender "for all purposes", but this is subject to any contrary provision in other legislation. It emphasized the importance of interpreting statutes in a way that provides clarity and predictability, especially where protected characteristics are involved. It also found that extending "sex" to include acquired gender would create confusion and undermine the Equality Act's purpose, including areas such as single-sex spaces, sports, and privacy-based services.

…breach of the letter of indemnity by failing to cover the Claimants' ongoing costs of related litigation which amounted to approximately £850 million due to joint liability in related litigation.

The Court concluded that the statutory guidance was unlawful to the extent it required that trans women with a GRC be treated as women for the purposes of the 2018 Act, as this misrepresented the meaning of "woman" in the Equality Act 2010 and thus exceeded the Scottish Ministers' powers.

Commentary

This decision provides a definitive judicial interpretation of "sex," "man," and "woman" under the Equality Act 2010 as referring exclusively to biological sex, not acquired gender. It marks a pivotal moment in UK equality jurisprudence, especially in the context of public policy affecting women's representation, access to single-sex spaces, and sex-based protections.

The Court's reasoning rests on statutory clarity and the principle that protected characteristics must be interpreted predictably and within the scope defined by Parliament. While acknowledging the status granted under the Gender Recognition Act 2004, the Court reaffirmed that legal recognition of gender does not displace the biological framework on which the Equality Act is constructed unless Parliament expressly provides otherwise.

This decision underscores the constitutional boundary between executive interpretation and legislative intent, particularly in socially contested areas. It also illustrates how courts may balance inclusion with statutory coherence, especially where redefining legal categories could compromise existing rights.

In a Nigerian context, where there is no statutory recognition of gender transition, the principle of biological sex remains uncontroversial. However, the decision serves as a comparative reference point for future legal or legislative debates around sex, gender, and the reach of equality protections.

A defendant with schizophrenia may still be criminally responsible where they can understand the moral wrongfulness of their actions. **R. v. Bharwani 2025 SCC 26**

Brief Facts

The accused, with a longstanding history of mental health challenges, was charged with first-degree murder for killing his roommate. Before trial, his mental health fluctuated, raising concerns about his fitness to stand trial. He discharged his counsel and chose to represent himself. Because of concerns about his mental state, the court appointed an amicus curiae (a lawyer to assist and protect proper procedure). A jury later found him fit to stand trial.

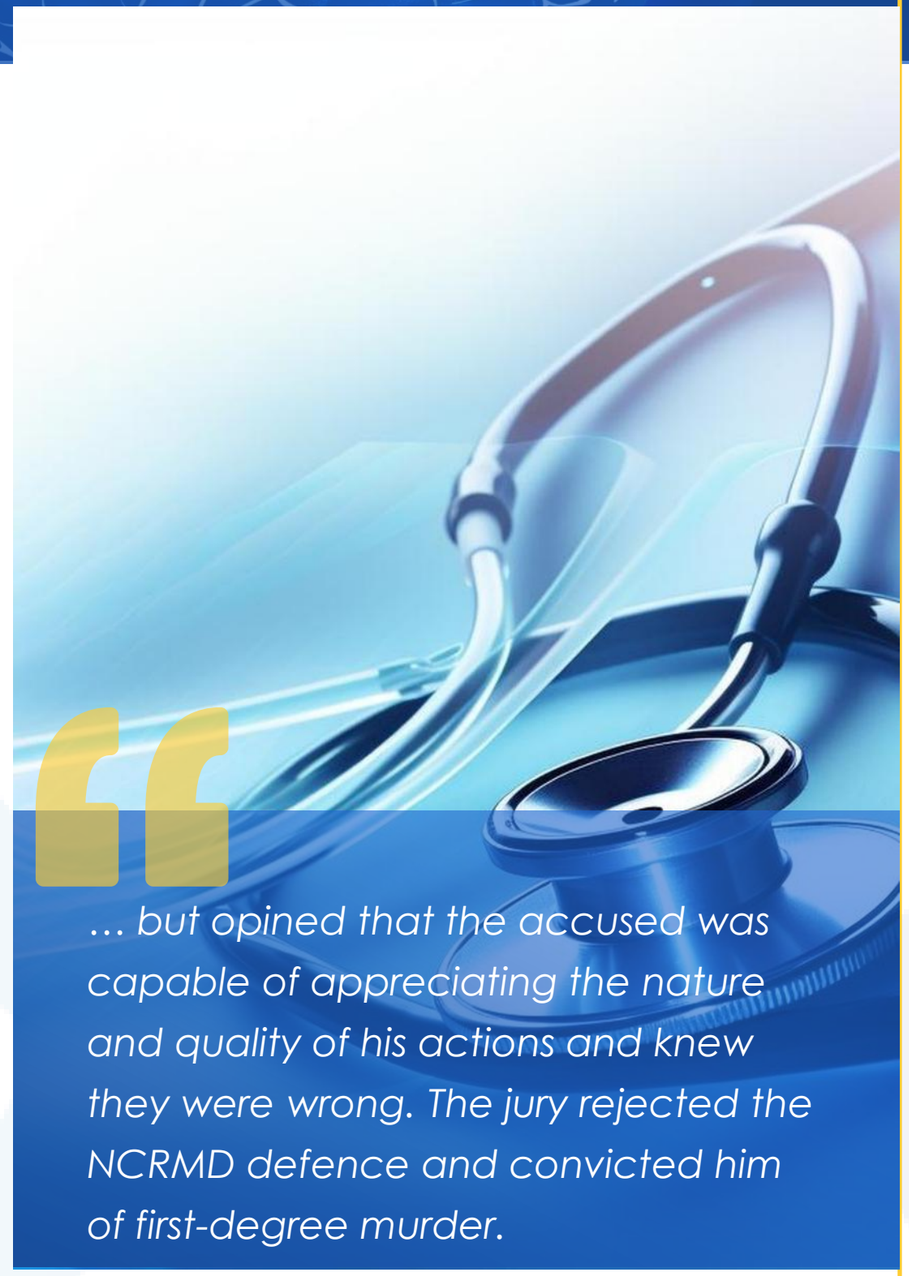
At trial, the accused raised a defence of *Not Criminally Responsible on account of a Mental Disorder* (**NCRMD**). Three forensic psychiatrists testified. Two defence psychiatrists diagnosed him with schizophrenia and psychosis, concluding that he could not understand the moral wrongfulness of his actions at the time of the offence. The Crown's psychiatrist (Dr. Scott Woodside) also diagnosed schizophrenia but opined that the accused was capable of appreciating the nature and quality of his actions and knew they were wrong. The jury rejected the NCRMD defence and convicted him of first-degree murder.

On appeal, the accused sought to introduce fresh evidence from two additional psychiatrists who conducted post-trial assessments on his fitness to stand trial and NCRMD defence. The Court of Appeal dismissed both the motion and the appeal, affirming that he had been fit for trial. The accused further appealed to the Supreme Court of Canada, filing a motion to adduce new evidence regarding judicial findings from unrelated cases (R. v. Nettleton and R. v. Minassian) where concerns had been raised about the notetaking and drafting practices of W, the Crown's expert psychiatrist.

The main issue implicated in the appeal was whether the accused, despite his schizophrenia, was fit to stand trial and whether fresh evidence should be admitted on appeal to challenge the conviction.

Decision of the court

The Supreme Court of Canada dismissed the appeal and held that the accused was fit to stand trial despite suffering from schizophrenia. The Court reasoned that fitness to stand trial does not require an accused to make decisions that are necessarily in their best interests; rather, the law only requires that such decisions be reality-based, intelligible, and grounded in an understanding of the nature and consequences of the proceedings.



> *… but opined that the accused was capable of appreciating the nature and quality of his actions and knew they were wrong. The jury rejected the NCRMD defence and convicted him of first-degree murder.*

The issue before the Supreme Court revolved around the proper characterization of payments made by BP to RBC, pertaining to the rights to oil extracted from the UK Continental Shelf, for the purposes of the DTC.

It was not necessary that the accused make decisions in his own best interest, but he could not be overwhelmed by delusions or hallucinations when making such decisions.

In this case, the accused occasionally displayed delusional behaviour but was consistently redirected by the trial judge and amicus, and he demonstrated a clear understanding of his trial. He made reality-based decisions, reviewed disclosure, challenged the admissibility of his police statement, argued the relevance of his mental condition to planning and deliberation, and even called witnesses in his defence. Although his tactical choices were sometimes unwise, the trial judge found no reasonable grounds to doubt that he understood the reality of his trial. In summary, the Supreme Court upheld Bharwani's conviction, finding that despite schizophrenia, he was fit to stand trial as he understood the moral wrongfulness of his actions and the nature of the proceedings. The court strongly deferred to the trial judge's fitness assessment and denied the introduction of new psychiatric evidence on appeal.

On the issue of fresh evidence sought on appeal, the Court held that the evidence did not meet the threshold for admissibility, as it could not reasonably be expected to affect the outcome of the trial. The Court of Appeal had made no error in rejecting it, and the Supreme Court agreed. Consequently, the conviction was upheld.

Dissenting Judgment

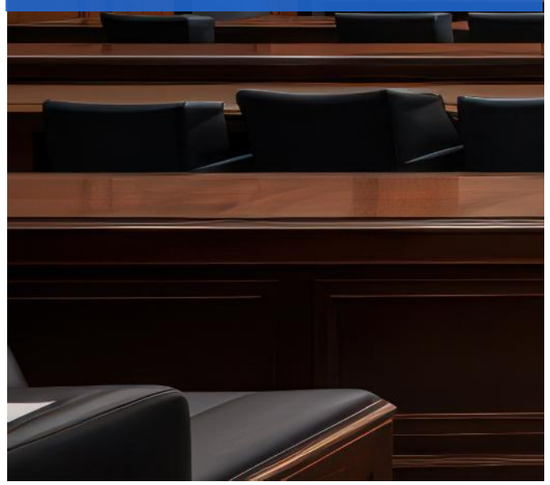
The dissent (written by Karakatsanis and Martin, joined by Moreau) agreed with the majority's view of fitness, as they did not reject the majority's test or result on that issue, but dissented on the fresh evidence. They argued the fresh evidence was cogent, new, and relevant, and cast doubt on the reliability of the Crown's key psychiatric expert. In particular, they noted that the expert had a practice of "copy-pasting" sections from prior reports, sometimes leading to errors. On that basis, they would have allowed the fresh evidence, found a miscarriage of justice, and remitted the matter for a new trial.

Commentary

The decision in this case is particularly instructive because it distinguishes between the accused's fitness to stand trial and the defence of insanity at the time of the commission of the offence. The decision appears to be the first time the Supreme Court has given a fully developed interpretation of the "unfit to stand trial" provision in the Criminal Code since it was enacted in 1991. The court clarified that fitness does not require capacity for rational decision in one's best interest, and reaffirmed that an accused may make unwise or poor decisions, so long as they are reality-based

In Nigeria, Courts typically assess whether the accused "understands the proceedings" and "can make a defence." The Canadian refinement—requiring only reality-based decision-making rather than rational or best-interest decision-making—offers useful comparative insight. It reminds Nigerian Courts that the test should not be over-extended to protect an accused from their own unwise litigation choices, but should focus narrowly on capacity to engage with trial.

The Supreme Court has clarified that once a trial court suspects unsoundness of mind, it must conduct an inquiry pursuant to section 223 of the Criminal Procedure Act.



Suffice to say that Nigerian jurisprudence, much like the Canadian decision, recognises the difference between an insanity defence (focusing on the time of the act) and fitness to stand trial (focusing on the time of proceedings). The question of fitness to stand trial arises only where unsoundness of mind persists post-offence and affects the ability of the accused to defend himself. The Supreme Court has clarified that once a trial court suspects unsoundness of mind, it must conduct an inquiry pursuant to section 223 of the Criminal Procedure Act (or its state equivalents) and make a specific finding before continuing the trial.[90] More recently, in **Azuka v. State**[91], the Court of Appeal reiterated that a trial court can only embark on such an inquiry where there is some evidential basis to suspect unsoundness of mind, as there is no presumption that a person once insane remains insane.

On the issue of fresh evidence on appeal, Nigerian law is in alignment with the Canadian position. The Supreme Court of Nigeria has consistently leaned against admitting fresh evidence in criminal appeals except in exceptional circumstances.[92] This ensures finality of litigation and preserves the integrity of trial proceedings. In light of the above, if the facts of **R. v. Bharwani** arose in Nigeria, it is highly likely that our courts would reach a similar conclusion: (1) that schizophrenia alone does not render an accused unfit to stand trial unless it demonstrably impairs his ability to defend himself, and (2) that fresh evidence post-conviction would not be lightly entertained on appeal unless it satisfies stringent admissibility requirements.

90. Mboho v. State [1996] LPELR-25378 (SC), and Ukpi v. State [1976] LPELR-3348 (SC).
91. [2021] LPELR-56553 (CA) at 37-51, paras. F-C.
92. Adeyefa v. Bamgboye [2013] 10 NWLR (Pt. 1363) 532 at 554, para. A

2026 OUTLOOK

2026 OUTLOOK

Nigeria's political, regulatory, and commercial environment is primed for significant dispute activity in 2026. New statutory frameworks, shifting regulatory strategies, and evolving market pressures are converging to create a disputes landscape marked by heightened scrutiny, institutional assertiveness, and increased legal uncertainty. As in previous electoral cycles and reform periods, litigation, arbitral references, and administrative challenges are expected to expand across multiple sectors, generating both risk for market participants and opportunities for sophisticated advisory and dispute-resolution mandates.

The following thematic areas highlight where disputes are most likely to arise, drawing on observable regulatory trends, pending reforms, and the behavioural patterns of government agencies, private actors, and political institutions.

In addition, the contributions of various judges that spoke at the recent CIArb (Nigerian Branch) conference in November 2025 confirm that Nigerian Courts are not backing down on their pro-arbitration stance.

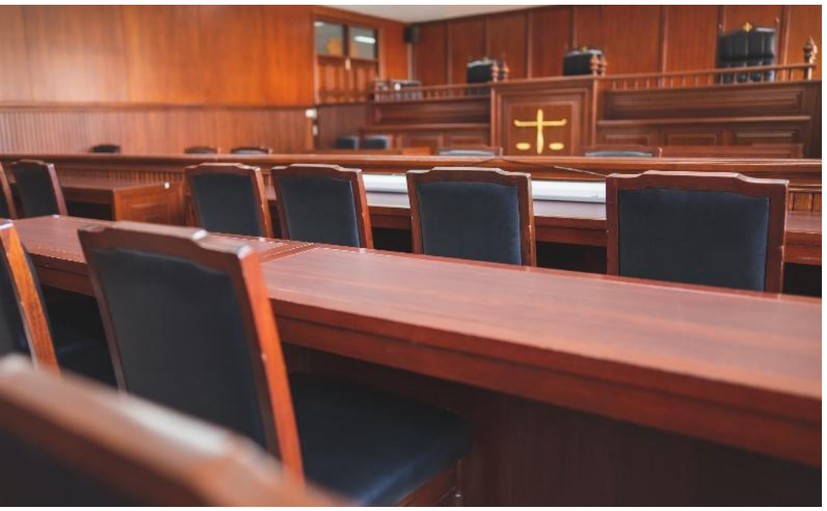
1 PRE-ELECTION AND INTRA-PARTY DISPUTES

With a major election year approaching, 2026 will likely be dominated by a resurgence of intra-party and pre-election disputes. The courts are expected to become increasingly central to contests around internal party processes, especially in the areas of candidate selection, delegate accreditation, and compliance with party constitutions. Persistent challenges around imposition, manipulated congresses, and disputed primaries will intensify as political actors seek judicial intervention to secure electoral advantage.

The growing use of placeholders, late substitutions, and inconsistent interpretation of electoral guidelines will also drive litigation. These disputes not only challenge the internal cohesion of political parties but also shape the broader electoral landscape well before polls open. In many cases, emergency applications, pre-emptive suits, and competing court orders will create uncertainty, making judicial intervention a decisive factor in determining political legitimacy.

Recent political developments indicate that pre-election litigation will significantly intensify ahead of the 2027 general elections. National data shows that between 2023 and 2025, Nigerian courts handled over 1,200 pre-election matters,[93] reflecting the depth of intra-party fractures and the increasing judicialization of political contestation. This trend is reinforced by the spate of conflicting court orders over party leadership and primaries in Kano,[94] Rivers, Edo, Plateau States as well as several other states in Nigeria. These disputes underscore the persistent vulnerability of internal party structures and highlight why pre-election cases will remain a major source of disputes in 2026.

93. Daily Trust, "Courts handled over 1,300 election-related cases in 2023 — NJC."
94. Premium Times, Court sacks Kwankwaso-backed PDP executives in Kano accessed on 04.12.2025.



Also, leadership struggles within the major political parties, especially the PDP, are expected to fuel additional pre-election disputes. The party has been beset by escalating internal divisions, with multiple state chapters issuing parallel suspensions and conflicting directives. Public disagreements between the NWC and influential blocs - notably the Wike-aligned faction have produced competing legal actions and governance issues across several states.[95] These trends suggest intra-party related litigation will be a significant driver of political disputes heading into 2026.

For practitioners, this environment will demand quick-turnaround strategy, mastery of electoral jurisprudence, and deep familiarity with the procedural nuances of pre-election reliefs.

2 TAX DISPUTES AND EMERGING COMPLIANCE RISKS

The implementation of the Nigeria Tax Act, the Nigeria Tax Administration Act, and the Nigeria Revenue Service Act marks a turning point in tax administration, creating a more centralised and data-driven enforcement ecosystem. Revenue authorities at the federal and state levels are now equipped with broader investigative powers, integrated technology platforms, and enhanced access to financial and transactional information, enabling more aggressive enforcement initiatives.

As audits become more automated and coordinated, companies will likely face complex assessments touching on transfer pricing, digital services, cross-border income, withholding obligations, retrospective reinterpretation of transactions, and sector-specific tax incentives. The likelihood of disputes arising from algorithm-generated assessments, divergent interpretations of tax reforms, and conflicts between federal and state tax jurisdictions will increase substantially.

The reform framework also suggests that authorities may adopt more assertive reclassification of transactions, for instance, categorising service arrangements as royalties or technical fees to trigger additional tax liabilities. This environment will foster sophisticated objection processes, tribunal matters, judicial reviews, and constitutional challenges, particularly where taxpayers argue overreach, unfairness, or non-compliance with due process.

95. The Guardian, PDP deepens purge, issues expulsion certificates to Wike, Fayose, Anyanwu, others accessed on 05.12.2025.

3 INSURANCE SECTOR DISPUTES

The Nigerian Insurance Industry Reform Act 2025 (**NIIRA**) introduces one of the most extensive regulatory overhauls in the sector in recent years. Its expanded licensing requirements, stricter solvency and governance obligations, and enhanced enforcement powers are expected to significantly increase friction between operators and regulators.

Disputes will likely arise from contested licence revocations, refusal of renewal applications, and regulatory actions against entities now categorised as engaging in unauthorised insurance business. The more stringent capital adequacy standards may trigger challenges grounded in constitutional or administrative law, especially where operators perceive the requirements as retroactive or disproportionate.

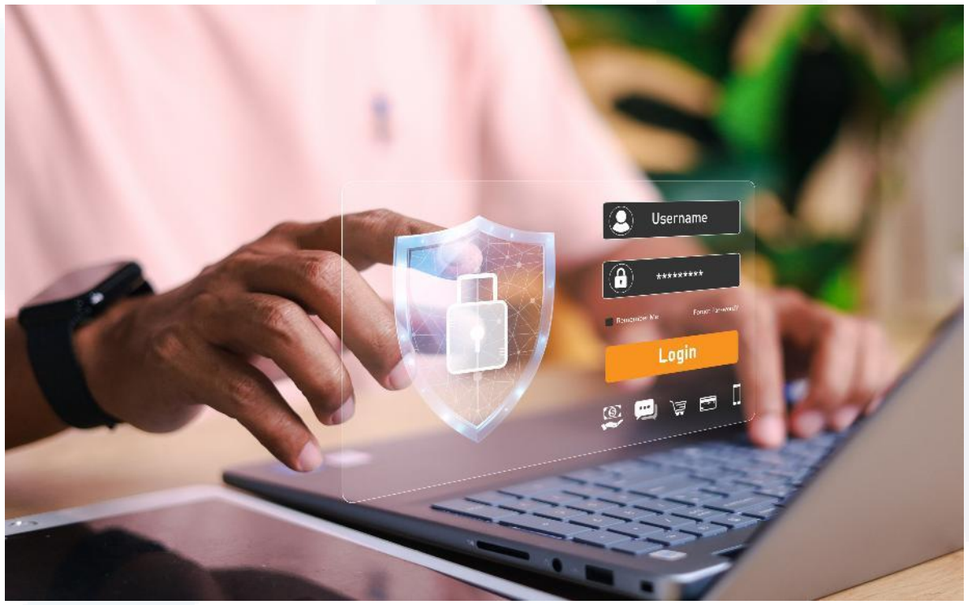
Reforms under the NIIRA are already reshaping regulatory practice, and recent enforcement actions by NAICOM demonstrate a stricter posture toward compliance, solvency, and licensing.[96] Reports of licence withdrawals, insurers being sanctioned, and policyholder litigation over repudiated claims indicate that regulatory oversight has become significantly more assertive, a trend that will drive insurance-related disputes in the coming year.

Beyond regulatory conflict, insurers may increasingly rely on the tightened compliance framework to deny or limit claims, leading to policyholder litigation concerning interpretation of exclusions, disclosure obligations, and compliance-linked repudiations. As a result, both regulatory and commercial insurance disputes are expected to grow in volume and complexity.

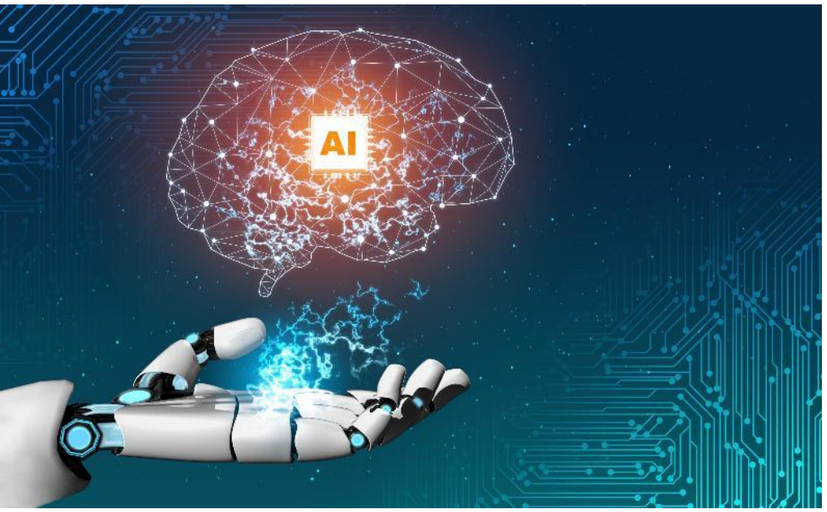
4 DATA AND CONSUMER PROTECTION

Following the Competition & Consumer Protection Tribunal's landmark decision imposing a US$220 million fine on Meta,[97] Nigeria is entering a phase of assertive regulatory enforcement in digital markets. Regulatory agencies are signalling willingness to take on global platforms and local digital operators alike, with enforcement likely to expand into areas such as data minimisation, discriminatory algorithms, targeted advertising, user consent, and cross-border data practices.

Given the absence of a harmonised data protection ecosystem, companies may face overlapping or conflicting obligations under sectoral rules, increasing the risk of regulatory investigation and administrative sanctions. The resulting disputes may take the form of tribunal challenges, judicial review of agency decisions, and constitutional tests of regulatory authority, particularly concerning extra-territorial application of Nigerian consumer law.



96. The Guardian "NAICOM intensifies enforcement, threatens licence withdrawals." Recapitalisation: NAICOM warns underwriters against infractions accessed on 02.12.2025.
97. Tribune Online, Tribunal upholds FCCPC's $220m fine against Meta – Tribune Online accessed on 01.12.2025.



5

ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY

The increased use of generative and analytical AI tools in legal, financial, and creative industries may likely generate new categories of disputes. Key concerns include authorship and copyright of AI-generated content, liability for erroneous or harmful outputs, and accountability for reliance on non-transparent algorithms.

Professional ethics challenges may arise where legal practitioners use AI in a manner that compromises due diligence or accuracy, potentially triggering disciplinary complaints or malpractice claims. As regulators begin to issue guidelines on responsible AI use, disputes may emerge over compliance obligations and interpretation of standards.

6

NUPRC & NMDPRA OVERSIGHT CONFLICTS

Oversight conflicts between the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) are likely to produce significant disputes in 2026, as the Presidential directive issued to clarify their roles has not fully resolved the ambiguities in the Petroleum Industry Act (PIA). The core uncertainty lies in determining which regulator has jurisdiction over integrated or transitional assets, such as gas processing facilities, pipelines, storage terminals, and offshore platforms that serve both upstream and midstream functions. As both regulators continue to issue overlapping directives, impose duplicative licensing requirements, and assert control over the same operations, operators face rising compliance burdens and inconsistent regulatory positions.

These tensions are expected to lead to administrative challenges, judicial review actions, and injunction applications as companies contest enforcement measures, licence conditions, and regulatory overreach. Unless clearer statutory guidance is provided, the courts may become the primary forum for determining the true scope of regulatory authority under the PIA.

7

INVESTMENT AND SECURITIES ENFORCEMENT UNDER THE ISA 2025

The Investment and Securities Act 2025 considerably expands SEC's regulatory authority, with implications for FinTechs, investment platforms, securities intermediaries, and capital market operators. New compliance obligations and enlarged investigative powers may lead to disputes involving administrative sanctions, licence suspensions, and questions regarding SEC's jurisdiction over novel investment models such as tokenised assets, digital exchanges, and crowd-investment schemes.

There may also be an increase in litigation challenging the proportionality of penalties, procedural fairness in enforcement actions, and SEC's interpretation of the new statutory framework. As Nigeria's investment ecosystem diversifies, these disputes will shape market practices and drive advisory demand.

8

LABOUR DISPUTES ON MINIMUM WAGE COMPLIANCE

The statutory ₦70,000 minimum wage is expected to fuel substantial labour disputes in 2026, particularly as many states continue to struggle with implementation. Labour tensions around the implementation of the ₦70,000 minimum wage continue to escalate, with many states yet to comply fully or pay arrears.[98] As labour unions threaten industrial action and governments cite financial incapacity, the stage is set for litigation over statutory obligations, enforceability of wage rights, and the validity of state-level deviations from federal mandates.

Litigation may centre on whether non-compliance constitutes a breach of statutory duty, whether states can plead fiscal incapacity, and how consequential adjustments apply to consolidated salary structures and pension calculations. Unions are likely to adopt sharper litigation strategies, including suits against MDAs, applications for mandamus, and challenges to collective agreements perceived as undermining statutory guarantees. These disputes may trigger constitutional questions about federal authority, state autonomy, and the enforceability of socio-economic rights within employment relationships.

8

CBN RECAPITALIZATION POLICY & FINTECH EXPOSURE

The Central Bank of Nigeria's recapitalisation requirements for banks, which mandate fresh paid-up capital and exclude retained earnings from minimum capital calculations, may lead to uncertainty over whether the same rules will be applied to finTechs or payment service platforms. Disputes could arise around regulatory jurisdiction, classification of finTechs under banking regulation, and whether finTechs will be compelled to meet similar capital thresholds or governance standards.

98. Punch Newspaper, 20 governors under fire for delaying N70k minimum wage accessed 20.11.2025

Glossary

Abbreviation	Meaning
AG	Attorney General
AGF	Attorney General of the Federation
BPP	Bureau of Public Procurement
CA	Court of Appeal
CBN	Central Bank of Nigeria
CITA	Companies Income Tax Act
ECOWAS	Economic Community of West African States
FBIR	Federal Board of Inland Revenue
FCCPA	Federal Competition and Consumer Protection Act
FEC	Federal Executive Council
FHC	Federal High Court
FREP Rules	Fundamental Rights (Enforcement Procedure) Rules 2009
GAID	General Application and Implementation Directive
ICC	International Chamber of Commerce
J.S.C	Justice of the Supreme Court
LCIA	London Court of International Arbitration
LPELR	Law Pavilion Electronic Law Reports
MDAs	Ministries, Departments and Agencies
NAICOM	Nigeria Data Protection Act 2023
NDPA	Nigeria Data Protection Act 2023
NIIRA	Nigerian Insurance Industry Reform Act 2025
NOTAP	National Office for Technology Acquisition and Promotion
NWLR	Nigerian Weekly Law Reports
NWC	National Working Committee
OPL	Oil Prospecting Licence

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