

ARBITRATION

2025
WRAP UP

2026
OUTLOOK

Contents

01 Introduction

2025 Wrap Up

- Nigerian Court of Appeal refrains from setting aside foreign arbitral award.
- Nigerian appellate Courts constrain public policy defences to award enforcement.
- English Supreme Court sanctions payment of legal costs in the currency incurred.
- Binding deference may attach to foreign court findings on consent to arbitrate (UK) but not to similar foreign arbitral decisions (US).
- Jurisdictions differ on whether ICSID awards can be enforced by assignees, raising concerns for parties and litigation funders.
- LACIAC seeks to operationalize Award Review Tribunal, while CIArb proffers guidance on AI and third-party funding.

2026 Projections

- Nigerian Courts are likely to maintain a pro-arbitration stance.
- Heightened scrutiny of arbitrator disclosure and impartiality is expected.
- Adoption of mediation and Award Review Tribunal may increase.
- Recapitalisation-driven shareholder and M&A disputes may accelerate.
- Investor-State, energy, mining, construction, climate-related disputes may be on the rise.

04 Conclusion

Foreword

2025 marked a busy year for arbitration in Nigeria, defined by constant judicial affirmation of award finality and international alignment. The Court of Appeal's move from setting aside foreign-seated awards to recognising the supervisory primacy of the courts at the seat, coupled with the decisions of the same Court and the Supreme Court narrowing public policy objections, signals a maturing, pro-enforcement jurisprudence.

International currents also mattered: English authority on paying costs in the currency incurred, contrasting UK-US approaches to deference on sovereign consent to arbitrate, and divergent positions on the assignability of International Centre for Settlement of Investment Disputes (ICSID) awards, all informed stakeholders' strategy in the year.

Institutionally and procedurally, the ecosystem continued to evolve. The Lagos Chamber of Commerce International Arbitration Centre (LACIAC)'s effort to operationalise the Award Review Tribunal (ART) under the Arbitration and Mediation Act 2023 (AMA) and the Chartered Institute of Arbitrators (CI Arb's) practical guidance on AI and third-party funding addressed real user needs around efficient review, transparency, and funding risk allocation.

Together, these developments underscore Nigeria's and stakeholders' commitment to credible, efficient processes that respect party autonomy while curbing opportunism and delay.

Looking ahead to 2026, the trajectory remains strictly pro-arbitration, with greater scrutiny of arbitrator disclosure and impartiality, likely uptake of mediation and ART, and a busier disputes pipeline. Banking sector recapitalisation is expected to spur shareholder and M&A conflicts, while investor-state, energy, mining, construction, PPP, ESG and climate disputes are poised to grow across Nigeria and the wider region.

The cumulative effect is a more predictable, internationally aligned Nigerian forum that supports investment and complex cross-border commerce.



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WRAP UP

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NIGERIAN COURT OF APPEAL REFRAINS FROM SETTING ASIDE FOREIGN ARBITRAL AWARD



... since the parties had expressly agreed to a London seat and the arbitration was conducted under the LCIA Rules, only the courts of the seat, that is, English Courts, could exercise supervisory jurisdiction to set aside the award.

In its 2025 decision, *OIS v Hempel*,¹ the Court of Appeal held that it does not have jurisdiction to set aside a foreign award, marking a significant departure from its previous holding in *Limak v Sahelian*.²

For context, in the 2021 case of *Limak v. Sahelian*, an arbitral award was rendered by a tribunal seated in Geneva under the International Chamber of Commerce (ICC) Rules, the Court of Appeal, relying on sections 48, 51 and 52 of the then Arbitration and Conciliation Act³ (ACA), set aside the foreign award.

But in *OIS v Hempel*, the Court of Appeal took a different course. The award sought to be set aside was issued by a tribunal seated in London under the London Court of International Arbitration (LCIA) Rules. Relying on similar ACA provisions as in the *Limak v Sahelian* case, the Court of Appeal held that Nigerian Courts lacked jurisdiction to set aside a London-seated award. The Court

observed that, since the parties had expressly agreed to a London seat and the arbitration was conducted under the LCIA Rules, only the courts of the seat, that is, English Courts, could exercise supervisory jurisdiction to set aside the award.

While the decision in *OIS v Hempel* is instructive, there are a few points to note. For starters, there are now two conflicting decisions on whether Nigerian Courts can set aside foreign awards. Also, considering that the *OIS v Hempel* is the latter in time, the High Court must follow the decision if the same question arises before it,⁴ but the Court of Appeal may not follow the decision. The Court of Appeal has the option to choose between its competing decisions.⁵ The Supreme Court may not adopt the decision as well. The decision of a lower Court cannot bind a superior Court. It remains to be seen, however, how the Supreme Court will settle the matter as *Limak v Sahelian* is scheduled to be heard by the apex Court.

1. *Oil & Industrial Services Ltd v Hempel Paints (South Africa) Pty Ltd* [2025] LPELR-81602 (CA).
2. *Limak v Sahelian* [2021] LPELR-58182 (CA).
3. *Arbitration and Conciliation Act, Cap A18, LFN 2004*.
4. *Oil & Industrial Services Ltd v Hempel Paints (South Africa) Pty Ltd* [2025] LPELR-81602 (CA).
5. *Thor Ltd v FCMB Ltd* [1997] 1 NWLR (Pt 479) 35 at 44 para A.

NIGERIAN APPELLATE COURTS CONSTRAIN PUBLIC POLICY DEFENCES TO AWARD ENFORCEMENT

Recent Nigerian decisions show a shift towards restricting public policy objections and strengthening a pro-enforcement culture. Two key decisions, *Champion v. Brauerei*⁶ and *Pan Ocean v. KCAD-D*,⁷ illustrate this trend and mark a departure from the earlier, more interventionist posture reflected in *Limak v. Sahelian*.⁸

Previously, we have seen the Courts set aside or refuse to recognize awards because they violate Nigerian public policy. One area where this has happened is where award debtors argued that failure to register a registrable agreement under the National Office for Technology Acquisition and Promotion (**NOTAP**) Act rendered the contract illegal and offended Nigerian public policy. This was the case in *Limak v. Sahelian*, where the Court of Appeal agreed with the award debtor and refused to recognize the award, holding that non-registration under NOTAP Act is a viable public policy basis for challenging the enforcement of the award. However, in *Champion v. Brauerei*, the Court of Appeal refused to recognize the non-compliance with NOTAP Act as a public policy ground. The Court of Appeal held that failure to register a registrable agreement under NOTAP Act does not render the contract illegal and cannot be used as a public policy basis to resist enforcement.

Also, in *Pan Ocean v. KCAD-D*, the Supreme Court refused to entertain an opportunistic reliance on illegality as a public policy ground for resisting the enforcement of an award. In this case, Pan Ocean received drilling services, acknowledged its indebtedness in a settlement agreement, and even procured a consent arbitral award. After partial payments and enforced garnishments, it sought to resist enforcement on the ground that the underlying contract was illegal because the contractor allegedly lacked proper incorporation. The Supreme Court dismissed the argument, holding that a party who has benefitted from a contract cannot later invoke public policy to escape liability on a technical or fabricated ground. The Court imposed punitive damages, signaling intolerance for abuse of public policy objections.

6. *Champion v Brauerei* [2025] LPELR-81422 (CA).

7. *Ocean v KCAD-D* [2025] 14 NWLR 413 (SC).

8. *Limak v Sahelian* [2021] LPELR 58182 (CA).



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UK SUPREME COURT REQUIRES LEGAL COSTS TO BE PAID IN THE CURRENCY INCURRED

In *P&ID v. Nigeria – Costs Proceedings*,⁹ the UK Supreme Court held that legal costs must be paid in the currency in which they were incurred, rejecting arguments for conversion into another currency. This ensures that cost awards reflect the actual financial burden of the successful party, maintain consistency, and prevent distortions from exchange rate fluctuations, particularly in cross-border litigation.

The currency dispute arose after Nigeria moved to recover the legal costs it incurred in British pounds (£) while pursuing the infamous P & ID arbitration and litigation in English Courts. P&ID argued that the costs should be paid in naira, contending that such conversion would better reflect the domestic value of the costs and prevent a potential windfall due to exchange rate fluctuations.

The Court rejected this argument and held that legal costs must be paid in the currency in which they were actually incurred. The reasoning was that awarding costs in the original currency preserves consistency, reflects the true economic burden borne by the successful party, and avoids the complexities and potential inequities that could arise from converting costs into a different currency.

This approach promotes fairness in cost awards, particularly in cross-border proceedings where currency fluctuations might otherwise distort the economic effect of an award.



... awarding costs in the original currency preserves consistency, reflects the true economic burden borne by the successful party, and avoids the complexities and potential inequities that could arise from converting costs into a different currency.

9. *P&ID v Nigeria – (Costs Proceedings)* [2025] UKSC 36.

BINDING DEFERENCE MAY ATTACH TO FOREIGN COURT FINDINGS ON CONSENT TO ARBITRATE (UK) BUT NOT TO SIMILAR FOREIGN ARBITRAL DECISIONS (US)

The UK case of *Russian Federation v. Hulley*¹⁰ (Hulley 1) and US case of *Hulley v. Russian Federation*¹¹ (Hulley II) illustrate the dichotomy between the role of domestic Courts in recognizing decisions of foreign Courts and arbitral tribunals, particularly where sovereign immunity and consent to arbitrate are involved.

In Hulley 1, the Russian Federation sought to set aside an award in Netherlands on the ground that it did not consent to arbitrate under the Energy Charter Treaty which formed the basis of the award. The Dutch Supreme Court held that the Russian Federation consented to arbitrate under the Energy Charter Treaty and is not therefore immune from the enforcement of the arbitral award issued against it pursuant to the consent. When Hulley sought to enforce the award in England, Russian Federation raised the same argument. Relying on the doctrine of issue estoppel, the English Court of Appeal held that the Russian Federation cannot relitigate the issue because it has been conclusively decided by the Dutch Supreme Court.

By contrast, in Hulley II, a foreign seated arbitral tribunal held that Russia had consented to arbitration under the Energy Charter Treaty. Hulley sought to enforce the award before the US District Court. Russian Federation opposed arguing that it did not consent to arbitrate, and was therefore entitled to immunity from enforcement, under the Foreign Sovereign Immunities Act. The District Court rejected Russia's contention, relying on the arbitral tribunal's determination that an arbitration agreement existed between the parties. On appeal, the Court of Appeals, D.C. Circuit, reversed the District Court's decision, holding that a decision on the existence or validity of an arbitration agreement must be independently assessed by the U.S. Court. Reliance cannot be placed on the foreign tribunal's determination.

Together, these cases illustrate a tension in international arbitration enforcement. While foreign court determinations on consent to arbitrate can generate binding deference in certain jurisdictions (such as England), foreign arbitral decisions do not enjoy similar status in jurisdictions (such as the U.S.) The comparison highlights the need for practitioners to carefully navigate this contrast.



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10. *The Russian Federation v Hulley Enterprises Ltd. & Others* [2025] EWCA Civ 108.

11. *Hulley Enterprises Ltd. v Russian Federation* No. 23-7174 [2025] WL 2216545.



JURISDICTIONS DIFFER ON WHETHER ICSID AWARDS CAN BE ASSIGNED RAISING CONCERNS FOR PARTIES AND LITIGATION FUNDERS



... an arbitration award delivered under the auspices of ICSID is not assignable, thereby rejecting an application to substitute one party for another in proceedings to enforce the award.

Parties seeking to fund or monetise ICSID arbitral awards may need to have a rethink considering the recent UK case of *Operafund v. The Kingdom of Spain*,¹² which negates the assignment of ICSID awards.

In *Operafund v. The Kingdom of Spain*, the English Commercial Court held that an arbitration award delivered under the auspices of ICSID is not assignable, thereby rejecting an application to substitute one party for another in proceedings to enforce the award. The Court reasoned that permitting assignment would cut across the Vienna Convention's closed system (including its exclusive post award regime) and risk multiplying enforcement against a State by persons who were never parties to the arbitration.

This contrast remarkably with the prevailing positions in a jurisdiction like the United States. Here, Courts have treated the right to payment under an arbitral award, including an ICSID award, as a transferable claim, and they have permitted assignees to seek

enforcement. In the US case of *Blue Ridge v. Republic of Argentina*,¹³ the US District Court held that the ICSID award is assignable, permitting Blue Ridge, as the assignee, to pursue enforcement of the award in the US.

Being a leading arbitration hub, France is another jurisdiction of interest. While the French Courts' view on assigning ICSID awards is unclear, in the 2024 case of *CC/Devas (Mauritius) Ltd and others v Republic of India*,¹⁴ the Paris Court of Appeal refused to let the assignees enforce the investor-State arbitration award. One reason is that the assignment agreement did not grant subrogation rights capable of allowing the assignees to step into the award creditor's enforcement rights.

The jurisdictional differences and uncertainty highlight the fact that parties seeking to fund or monetize arbitral awards must carefully structure their assignment agreement forthwith, paying attention to the jurisdictional nuances, including their procedural limitations on assignees' standing.

12. *Operafund v The Kingdom of Spain* [2025] EWHC 2874 (Comm).

13. *Blue Ridge Investments LLC v Republic of Argentina* [2012] US D.C. SDNY 902F Supp 2d367.

14. *CC/Devas (Mauritius) Ltd and others v Republic of India* (Appeal Nos 24/00151 and 24/00152).

LACIAC SEEKS TO OPERATIONALIZE THE AWARD REVIEW TRIBUNAL, WHILE CIARB PROFFERS GUIDANCE ON USE OF AI IN ARBITRATION AND THIRD-PARTY FUNDING

The draft LACIAC Award Review Proceedings Rules 2025 (**ART Rules**) introduce a procedural framework that might help parties to explore the ART's option as contemplated in Section 56 of the AMA.

For context, Section 56(1) of the AMA provides that parties may agree that the ART shall have the power to review their award, instead of the Court. Besides mandating that the application to review shall be made not later than three (3) months from the receipt of the award, and encouraging the ART to conclude the setting aside proceedings within sixty (60) days of the ART constitution, the AMA is silent on other procedural timelines and details, leaving these details to the agreement of parties or the discretion of the ART. The ART Rules are proposed to close this gap and make the ART attractive for users. The ART Rules apply wherever the parties agree to ART review, whether the underlying arbitration was under LACIAC, another institution, or ad hoc, and the ART Rules are incorporated by reference.

15. *Arbitration and Mediation Act 2023* (Nigeria) s 56(3).
 16. *LACIAC Award Review Proceedings Rules 2025* r 6.
 17. *LACIAC ART Rules 2025* r 8.
 18. *LACIAC ART Rules 2025* rr 10–13.
 19. *LACIAC ART Rules 2025* r 18.
 20. *LACIAC ART Rules 2025* rr 22–24.

The ART Rules contain helpful procedural details, six of which are highlighted here.

01

The ART Rules affirm the AMA's strict three-month deadline to file the initiating application, a Notice of Challenge.¹⁵

02

They clarify that commencement of review suspends limitation periods for enforcement, ensuring that parties are not prejudiced for opting into the review process.¹⁶

03

They maintain continuity with the underlying case by defaulting to the same seat, place and language.¹⁷

04

To streamline access and preserve neutrality, they centralise appointments of the ART members in the LACIAC Court, with the default being a sole arbitrator unless the parties or Court decides otherwise, and provide for robust disclosure obligations, and expedited challenge/substitution mechanisms to avoid delay.¹⁸

05

New issues or evidence are prohibited except in exceptional cases, such as corruption or fraud, preserving the integrity of the original proceedings and preventing the review from becoming a rehearing on the merits.¹⁸

06

Time discipline is reinforced by requiring a decision within sixty (60) days of the ART constitution, with only limited extensions (an additional thirty (30) days by the ART in exceptional circumstances; any further extension is for the Court), and by allowing the ART to determine the challenge on the papers—without hearing.²⁰



On its part, the CIArb issued the Guideline on the Use of AI in Arbitration²¹ (the **AI Guideline**) which offers a structured framework for integrating artificial intelligence into arbitral practice while safeguarding procedural integrity. Part II of the AI Guideline provides general recommendations applicable to all participants, parties and arbitrators alike. It encourages parties and arbitrators to make reasonable enquiries into any AI tool to be utilised, such as its function, underlying data and technology, while seeking to understand the capabilities, limitations and constraints of such AI tool. Users are also advised to evaluate the benefits of AI tools vis-a-vis implications on due process concerns, rule of law, administration of justice, and challenges to enforceability. Importantly, the AI Guideline emphasises that the use of AI will not reduce the level of a participant's responsibility or accountability unless expressly agreed by the parties and arbitrator(s) and subject to any applicable mandatory rule.

Part III of the AI Guideline addresses the parties' use of AI within arbitration and clarifies the tribunal's powers to regulate such use during arbitral proceedings. In this regard, the AI Guideline situates the issuance of directions or procedure rulings on AI by arbitrators where such AI usage can impact on the fairness of proceedings or the enforceability of an award within the purview of general powers of arbitrators. Additionally, arbitrators may appoint AI experts to assist with technical issues and require disclosure of usage of an AI tool where AI affects submissions or evidence, inquire into the rationale for non-disclosure, and prohibit the use of AI usage where such usage will undermine procedural

integrity. The AI Guideline also recognises party autonomy by providing that parties may agree on whether and how AI may be used. However, tribunals retain the right to intervene when disagreements arise or when AI usage raises concerns such as inaccuracy or threats to confidentiality. In determining admissibility of AI-generated content, arbitrators are encouraged to assess on a case by case basis, the link between the machine-generated output and the evidential source material on record, ensuring that the use of AI does not obscure legal or factual foundations.

Part IV of the AI Guideline turns to the use of AI by arbitrators themselves. While arbitrators may use AI to enhance efficiency such as for managing documents, reviewing submissions, or supporting administrative tasks, they are precluded from delegating any element of their decision-making to AI tools. The AI Guideline underscores that arbitrators must independently verify the accuracy of AI outputs and remain vigilant against biases that may arise from algorithmic tools. Arbitrators are required to maintain transparency by consulting the parties before using AI and refraining from the use of AI where the parties object to such usage. Ultimately, the AI Guideline establishes that arbitrators must assume full responsibility for an arbitral award, irrespective of any AI assistance deployed.

21. Issued in March 2025 and updated in September 2025.

The provisions of the AI Guideline are increasingly relevant as disputes involving AI reach national courts. To illustrate, in the U.S. case of *LaPaglia v. Valve Corporation*,²² the petitioner challenged an arbitration award on the grounds that the arbitrator allegedly "outsourced" his adjudicative role to artificial intelligence. The petitioner argued that the award contained "hallucinations" or false facts typical of AI generation, which would constitute the arbitrator exceeding his powers under Section 10(a)(4) of the US Federal Arbitration Act. The case illustrates the kinds of challenges that may surface when AI tools intersect with arbitral proceedings from questions about fairness and accuracy to concerns about how AI-influenced decisions may be reviewed or enforced. As the integration of AI into proceedings increases, cases like *LaPaglia* demonstrate that tribunals and courts will inevitably test the boundaries of AI use in arbitration. In this context, the AI Guideline serves as a crucial instrument, providing much-needed direction to ensure that AI enhances rather than undermines the credibility, transparency, and enforceability of arbitral processes.

Furthermore, the CIArb also issued the Guideline on Third Party Funding (the **TPF Guideline**) which provides comprehensive guidance on the use of TPF in arbitration. It addresses both the funding process and the implications of funding on case management. The TPF Guideline is structured in two (2) main parts. The first focuses on the funding process itself, while the second considers how funding arrangements impact arbitration proceedings.

In the first part, the TPF Guideline outlines the procedural stages for securing funding, emphasising that parties should understand the funder's requirements and the steps leading up to the execution of a Litigation Funding Agreement (**LFA**), which is subject to approval by the funder's Investment Committee. On the commercial side, funders typically structure returns using either a percentage-based model or multiple-based returns, balancing risk and reward. The TPF Guideline also underscores the importance of funder due diligence, ensuring that the funder has sufficient capital to support the claim through its conclusion.

The second part addresses the practical and procedural considerations of funded arbitrations. Funders are generally involved strategically, particularly in decisions on settlement, choice of counsel, or arbitrators, with the level of involvement clearly set out in the LFA. The TPF Guideline strongly recommends early disclosure of the existence and identity of a funder to prevent potential conflicts of interest, noting amendments in the IBA Guidelines on Conflicts of Interest 2024, which may treat funders as equivalent to parties in certain circumstances. Finally, the TPF Guideline clarifies that TPF should not automatically be seen as evidence of financial weakness, and that funders may use after-the-event insurance with an adverse cost endorsement to mitigate potential exposure in security for costs or interim relief applications.

Overall, the TPF Guideline provides practical and ethical frameworks for parties, tribunals, and funders, aiming to promote transparency, fairness, and efficient management of funded arbitrations.

22. No 3:25-cv-00833-RBM-DDL (SD Cal, 9 December 2025).



PROJECTIONS

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NIGERIAN COURTS WILL LIKELY MAINTAIN PRO-ARBITRATION STANCE

Given their stance in 2025, Nigerian Courts are expected to continue to consolidate their pro-arbitration stance in 2026, by reinforcing the sanctity of arbitral awards and limiting unnecessary judicial interference in matters designated for arbitration.

The Supreme Court's decision in *Pan Ocean v. KCAD-D*²³ illustrates this possibility, by emphasising that parties cannot belatedly challenge enforcement of an arbitral award on the grounds of illegality after fully participating in the arbitration process without raising timely objections. This decision is consistent with the apex Court's previous decisions such as *Mekwunye v. Imoukhuede*²⁴ where the Court did not allow the setting aside of an award despite the pathological nature of the underlying arbitration clause. The Court of Appeal's position in *Hempel v. OIS*²⁵ where it departs from its earlier position in *Limak v Sahelian* also lends credence to this projection.

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.

23. *Pan Ocean Oil Corp (Nig) Ltd v KCAD-D GmbH & Anor* [2025] 14 NWLR 413 (SC).

24. *Mekwunye v Imoukhuede* [2019] 13 NWLR (Pt 1690) 439 (SC).

25. *Oil & Industrial Services Ltd v Hempel Paints (South Africa) Pty Ltd* [2025] LPELR-81602 (CA).



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HEIGHTENED SCRUTINY OF ARBITRATOR DISCLOSURE AND IMPARTIALITY IS EXPECTED

Arbitrator disclosure and impartiality are expected to take centre stage in Nigerian arbitration practice in 2026, reflecting a broader shift towards enhanced transparency and ethical rigour. This focus has been accelerated by the *GHL v. First Bank* arbitration, where questions over the adequacy of tribunal disclosures sparked debate within the arbitration community. The case highlighted a key vulnerability, particularly the fact that the perception of undisclosed professional, financial, or institutional relationships can undermine confidence in arbitration and provide grounds for challenges to awards.

As Nigerian arbitration grows in complexity and international visibility, courts and arbitral institutions are expected to adopt a stricter, more proactive approach to disclosure obligations. Arbitrators will need to disclose not only actual conflicts of interest but also any circumstance that may create justifiable doubts about their independence or impartiality. These include prior engagements with parties or counsel, affiliations with expert witnesses, repeat appointments, or institutional roles that may influence perception. The emphasis is shifting from narrow, technical disclosure to a broader, good-faith standard consistent with global best practice.

ADOPTION OF MEDIATION AND AWARD REVIEW TRIBUNAL MAY INCREASE

In 2026, Nigeria's dispute-resolution landscape is expected to witness continued growth in mediation and expert determination, reflecting a broader shift toward alternative mechanisms that complement arbitration and litigation.

The AMA has a robust legislative foundation for mediation, signaling the government's commitment to promoting amicable dispute resolution and reducing overreliance on litigation. Also, Courts are actively encouraging parties to explore mediation before resorting to litigation, aligning Nigeria with global trends that prioritise timely, cost-effective, and commercially sensible resolution pathways. Similarly, the speakers at the November 2025 CIArb (Nigeria Branch) conference demonstrated how mediation is no longer an alternative, but a mainstream in Nigeria's ADR buckets.

Relatedly, if the ART Rules are finalised in 2026, bringing the much-needed procedural clarity to the use of ART, stakeholders might be encouraged to explore the ART review, although the concern that the use of ART will increase enforcement costs may remain a disincentive.



RECAPITALISATION-DRIVEN SHAREHOLDER AND M&A DISPUTES MAY ACCELERATE

Banking and financial-sector disputes are expected to rise significantly in 2026, as Nigeria's ongoing recapitalisation exercise, with a deadline of March 2026, accelerates mergers, acquisitions, and capital-restructuring transactions across the industry.

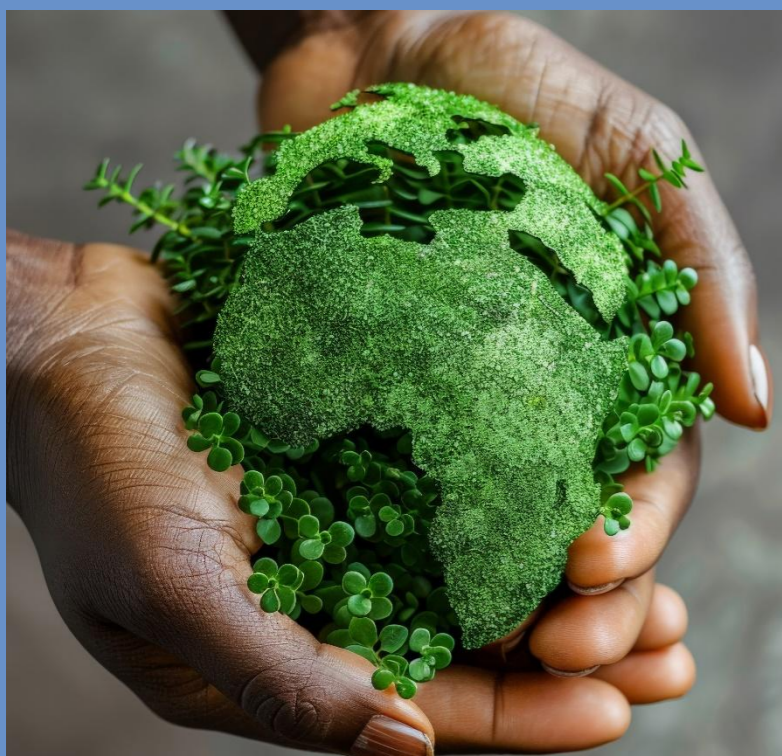
As financial institutions pursue strategic combinations, equity injections, and governance realignments to meet heightened regulatory thresholds, shareholder disputes are likely to feature prominently. Claims may arise from alleged dilution of shareholding, unfair prejudice and breaches of fiduciary duties. In recapitalisation-driven mergers, minority shareholders frequently challenge valuation methodologies, board decisions, and the fairness of scheme arrangements.

Recapitalisation is also expected to create friction between banks and institutional investors where parties believe that regulatory-driven restructuring disproportionately affect their economic or governance rights. These dynamics echo earlier consolidation cycles, particularly the 2004–2005 reforms, which generated a marked increase in shareholder and M&A-related disputes.



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INVESTOR-STATE, ENERGY, MINING, CONSTRUCTION, AND CLIMATE-RELATED DISPUTES MAY INCREASE



Investor–State disputes are expected to expand across Africa in 2026, fueled by regulatory reforms and fiscal adjustments emerging in several jurisdictions. As governments respond to economic pressures, energy transition imperatives, and shifting political priorities, foreign investors are increasingly assessing whether State measures infringe treaty protections or disrupt negotiated commercial expectations. As the ICSID’s recent report shows, the sectors driving most ICSID disputes –oil, gas, and mining– closely mirror the economy of Nigeria and several Sub-Saharan States, thereby showing that the dispute triggers are much alive in the region and are prone to go off anytime.²⁶ The combination of all these is likely to generate a rise in treaty claims and contractual arbitrations involving sovereigns and State-linked entities.

In 2026, ESG-driven and climate-related disputes are expected to be among the fastest-growing categories of arbitration across Africa, reflecting evolving regulatory frameworks and the global shift toward sustainable business practices. As governments tighten environmental standards and companies embed sustainability obligations into contracts, the risk of disputes arising from non-compliance, performance failures, or shifting regulations is forecast to increase.



Contracts incorporating ESG clauses, carbon-credit arrangements, renewable-energy guarantees, and sustainability-linked financing instruments are now common in sectors such as energy, infrastructure, manufacturing, and real estate. These obligations are likely to generate arbitrable claims over decarbonisation targets, green-building breaches, emissions reporting, and carbon-project operations or transfers.

Climate-related regulatory interventions are another emerging source of friction. African States introducing carbon-pricing schemes or environmental permitting reforms may face investor challenges under contractual stabilisation clauses or investment-treaty protections.

26. See our analysis of the ICSID Caseload Report [here](#).



Construction-related arbitrations are expected to increase in 2026, driven by Nigeria's and Africa's continued push for large-scale infrastructure development amid increasingly volatile economic conditions.

Sustainability-linked financing and green-infrastructure projects, including solar farms, hydropower installations, electric-mobility systems, and climate-resilient urban developments, are expected to produce multi-party disputes in 2026. With rising regulatory obligations, investor scrutiny, and the commercialization of climate commitments, arbitration will increasingly underpin environmental accountability and manage the legal risks of Africa's green transition.

Construction-related arbitrations are expected to increase in 2026, driven by Nigeria's and Africa's continued push for large-scale infrastructure development amid increasingly volatile economic conditions. Across both public and private sectors, ongoing projects are confronting rising costs, foreign exchange instability, supply chain disruptions, and evolving regulatory requirements. These pressures are likely to fuel a surge in construction-related disputes, many of which will be directed to arbitration because of their technical complexity and significant commercial implications.

Delays, disruptions, variations, and defects will remain the most common sources of conflict, particularly in major road, rail, power, housing, and real estate developments.

PPP projects will be another major driver of disputes in 2026. As governments seek private financing for infrastructure delivery, disagreements may arise over government guarantees, termination payments, delayed financial close, political risk events, and regulatory changes affecting project viability. Concession disputes, tolling arrangements, and performance standards in transport, energy, and urban development projects are also likely to reach arbitration.

Glossary

Abbreviation

ACA

AI

AI Guideline

AMA

ART

ART Rules

CIArb

ESG

ICC

ICSID

LACIAC

LCIA

LFA

M&A

NOTAP

P&ID

PPP

TPF Guideline

UK

US

Meaning

Arbitration and Conciliation Act, Cap A18, LFN 2004

Artificial Intelligence

Guideline on the Use of AI in Arbitration 2025

Arbitration and Mediation Act 2023

Award Review Tribunal

LACIAC Award Review Proceedings Rules 2025

Chartered Institute of Arbitrators

Environmental, Social and Governance

International Chamber of Commerce

International Centre for Settlement of Investment Disputes

Lagos Chamber of Commerce International Arbitration Centre

London Court of International Arbitration

Litigation Funding Agreement

Mergers and Acquisitions

National Office for Technology Acquisition and Promotion

Process and Industrial Developments Limited

Public-Private Partnership

Guideline on Third-Party Funding 2025

United Kingdom

United States of America

Conclusion

The arbitration landscape in Nigeria and sub-Saharan Africa is in a period of growth, building on the pro-arbitration decisions and exiting the year with clearer doctrine, stronger institutions and improved user experience. For instance, Nigerian Courts have reinforced finality and curtailed expansive public policy challenges. Nigerian institution has provided procedural guidance on award review, while foreign institutions have provided similar guide on AI and third party funding, collectively tightening the system's incentives towards efficiency and credibility.

Against this backdrop, 2026 invites a measured and disciplined execution, involving careful seat selection, strategic drafting of arbitration agreements, rigorous disclosure and case management, and proactive enforcement planning for an anticipated uptick in complex commercial and investor-State disputes.

With these foundations, we hope that the arbitration community in Nigeria and elsewhere can approach 2026 with greater certainty that Nigeria offers a reliable, internationally aligned venue for resolving high value disputes.

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