

DISPUTE RESOLUTION PRACTICE GROUP

Enforcing Foreign Arbitral Awards in Nigeria: What Creditors Should Know

Winning an arbitral award overseas is only the start if the debtor keeps its assets in Nigeria. Getting paid here means going through the Nigerian courts, and the process comes with its own rules, documents and deadlines. For creditors holding a foreign award, the practical questions are simple to state: does Nigeria recognise the award, which court hears the application, how can the debtor push back, and how long does it take.

Nigeria and the New York Convention

Nigeria is a party to the 1958 New York Convention, having acceded on 17 March 1970. The Arbitration and Mediation Act (AMA) 2023 now governs arbitration in Nigeria, and section 60 applies the Convention to awards made in other contracting states that arise from commercial transactions as defined under Nigerian law. The Act also provides, in sections 57 and 58, for the recognition and enforcement of awards and the grounds on which enforcement can be refused. A creditor should first confirm that the seat of the award is in a contracting state and that the underlying dispute is commercial.

Which Court and What Procedure

Enforcement is adversarial. The application is made by originating motion on notice, supported by an affidavit and a written address, rather than by an ex parte application, and the Court of Appeal has criticised the ex parte route. The Federal High Court is the usual forum for foreign awards, although the High Court of the Federal Capital Territory and State High Courts are also named in the Act for enforcement of awards. Awards made under the ICSID Convention follow a separate route through the Supreme Court. The debtor may file a counter-affidavit or indicate that it will not contest. If the court is satisfied, it recognises the award and it is enforced like a judgment, including through garnishee proceedings or a writ of fieri facias.

Documents the Court Will Expect

The affidavit should exhibit the original award or a certified copy, and the original arbitration agreement or a certified copy. Any document not in English needs a certified English translation. The affidavit should state the parties' names and addresses, the extent of non-compliance and that the award is binding and has not been set aside or suspended at the seat. The court expects an applicant to act in good faith and to disclose anything that could affect its discretion.

How a Debtor Can Resist Enforcement

Section 58 of the Act, which closely follows Article V of the Convention, sets out the grounds for refusing enforcement. These include a party's incapacity, an invalid arbitration agreement, lack of proper notice or inability to present a case, an award dealing with matters outside the submission to arbitration, an improperly constituted tribunal or procedure, and an award that is not yet binding or has been set aside or suspended at the seat. Enforcement may also be refused where the subject matter cannot be arbitrated under Nigerian law or where enforcement would be contrary to Nigerian public policy. Where a set-aside application is pending at the seat, the court can adjourn and order security.

Limitation and Timing

Neither the Convention nor the AMA sets a specific enforcement deadline, so limitation is governed by Nigerian limitation law. Foreign awards are generally treated as subject to a six-year period, and the rules on when time starts to run have been the subject of litigation, so creditors should not wait. Once an application is filed, hearings are generally fixed within about 30 days of service on a respondent in Nigeria, or 40 days for one outside the jurisdiction. The decision can be appealed to the Court of Appeal and the Supreme Court, and an appeal does not automatically suspend enforcement; a stay has to be applied for. The overall time from filing to recovery depends on whether the debtor contests, whether there are appeals, and how quickly assets can be identified and reached.

State Parties and Asset Recovery

Where the debtor is a state or a state entity, Nigerian courts apply the restrictive theory of immunity, so commercial assets and cases where immunity has been waived, including by agreeing to arbitrate, are treated differently from assets used for sovereign functions. Early asset tracing helps in every case, because it shapes both the choice of enforcement tool and the strategy for interim relief.

Practical Steps for Creditors

Confirm the seat and the commercial character of the dispute. Assemble authenticated copies of the award and agreement, with translations where needed. Check the limitation position at the outset and file promptly. Prepare for the grounds the debtor is most likely to raise, particularly notice, jurisdiction and public policy. Trace assets early, and plan for an appeal.

Our team often acts as counsel in both domestic and international arbitration, and we handle enforcement too, guiding creditors through recognition applications, asset recovery and resisting challenges.

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