

Enforcement of *Arbitral Awards in Nigeria*



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Introduction

Arbitration has become an increasingly preferred mechanism for resolving commercial disputes in Nigeria, particularly in sectors such as oil and gas, energy, construction, finance, and infrastructure. One of the central advantages of arbitration is the finality of arbitral awards and their enforceability across jurisdictions. However, the effectiveness of arbitration ultimately depends on the willingness of courts to recognise and enforce such awards. An arbitral award is the final and binding decision rendered by an arbitral tribunal in deciding the conflict between parties to the arbitration proceedings.

In recent years, Nigerian courts and lawmakers have taken significant steps to strengthen the enforcement framework for arbitral awards. Recent judicial decisions and legislative developments reveal a growing trend towards supporting arbitration while maintaining limited judicial oversight. This article examines the legal framework for enforcing arbitral awards in Nigeria.

A. Legal Framework for Enforcement of Arbitral Awards

The legal framework guiding the enforcement of arbitral awards in Nigeria include:

i. **Arbitration and Mediation Act (AMA) 2023:**

The enforcement of arbitral awards in Nigeria is primarily governed by the AMA, which repealed the earlier Arbitration and Conciliation Act. The AMA aligns Nigerian arbitration law with international best practices and also incorporates key provisions of the UNCITRAL Model Law and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Section 57 of the AMA provides that an arbitral award shall, irrespective of the state or country in which it is delivered, be recognised as binding on the parties and may be enforced by a court of competent jurisdiction upon application by the successful party.

ii. **The Sheriff and Civil Process Act, Cap S6, LFN 2004:**

The Sheriffs and Civil Process Act (SCPA) is one of the principal statutes governing the enforcement of judgments in Nigeria. The Act establishes the procedures and mechanisms through which judgments and awards may be executed.

iii. **The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958):**

The AMA incorporates the Convention under Section 60, allowing foreign arbitral awards from other contracting states to be enforceable in Nigeria.

B. Procedure for Enforcement of Arbitral Awards

There are generally two categories of arbitral awards that may be enforced in Nigeria:

- i. Domestic award: These are awards made within Nigeria pursuant to arbitration proceedings conducted under the provisions of the AMA or;
- ii. Foreign award: These are awards made outside Nigeria but which may be recognised and enforced within Nigeria under international conventions such as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958).

An arbitral award whether domestic or foreign may be enforced through a written application to the courts¹, specifically the High Court of a state, the High Court of the Federal Capital Territory or the Federal High Court.² To enforce an arbitral award, the party seeking enforcement must in addition to the application provide:

- a. The original arbitral award or a certified copy
- b. The arbitration agreement or a certified copy
- c. A certified translation of the award, if the award was not made in English

These documents enable the court to verify the existence of a valid arbitration agreement and confirm that the arbitral tribunal properly issued the award.

Section 60 of the AMA further provides that where a foreign arbitral award is sought to be enforced in Nigeria, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, as set out in Schedule 2 of the Act, shall apply. Under the Convention, a foreign arbitral award may be recognised and enforced in Nigeria provided that:

- a. the award was made in a country that is a contracting state to the Convention; and

¹ Order 30 Rule 1, (1) and Rule 5(1&2) of the Arbitration and Mediation Act

² Section 56 and 91 of the Arbitration and Mediation Act 2023

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- b. the dispute arose from a legal relationship that is considered commercial under Nigerian law.

Once these conditions are satisfied, Nigerian courts may recognise the foreign award and enforce it in the same manner as a domestic arbitral award. However, enforcement is not automatic. The court retains the authority to examine whether the award complies with the statutory requirements under the Act. Unless the award is successfully challenged on any of the limited grounds provided under Section 58 of the Arbitration and Mediation Act 2023, the court will recognise the award as binding and enforce it in the same manner as a judgment of the court.

C. Grounds for Refusal of Enforcement

Although Nigerian courts generally support the enforcement of arbitral awards, the law provides limited circumstances under which enforcement may be refused under Section 58 of the AMA.

These include situations where:

- i. A party lacked the capacity to enter the arbitration agreement
- ii. The arbitration agreement is invalid under the applicable law
- iii. A party was not given proper notice of the arbitral proceedings
- iv. The arbitral tribunal exceeded its jurisdiction as the award deals with matters beyond the scope of the arbitration agreement or contains decisions on issues not submitted to arbitration.
- v. The composition of the tribunal was not in accordance with the parties' agreement
- vi. The award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which it was made.
- vii. If enforcement of the award would be contrary to the public policy of Nigeria.

These grounds mirror those contained in the New York Convention and are intentionally narrow to preserve the finality and integrity of arbitration proceedings.

D. Limitation Period for the Recognition and Enforcement of Arbitral Awards:

The recognition and enforcement of arbitral awards in Nigeria are also subject to statutory limitation periods. In Nigeria, the limitation period for enforcing such an arbitral award is six (6) years from the date the cause of action arose.³ However, it is important to note that Section 34 of the AMA contains provisions on the application of the statutes of

³ City Engineering Nig. Ltd V Federal Housing Authority (1997) 9 NWLR (Pt. 520) 224.

limitation to arbitral proceedings and in particular, Section 34 of the AMA addresses the applicability of statutes of limitation to arbitration. Section 34(4) provides that in computing the time for the commencement of proceedings to enforce an arbitral award, the period between the commencement of the arbitration and the date of the award shall be excluded.

In effect, the time spent during the arbitration proceedings is not taken into account when calculating the limitation period for enforcement of the award. This provision ensures that parties are not prejudiced by the time consumed during the arbitration process and preserves their right to seek enforcement of the award within the applicable limitation period.

Conclusion

The enforcement of arbitral awards is central to the credibility and effectiveness of arbitration as a dispute resolution mechanism. The Arbitration and Mediation Act 2023, provides clear procedures for the recognition and enforcement of both domestic and foreign arbitral awards. By limiting the grounds upon which enforcement may be refused and recognising the binding nature of arbitral decisions, the act and the court have reinforced the finality of arbitration. This framework strengthens confidence in arbitration and ensures that parties can effectively realise the benefits of awards obtained through the arbitral process.