Which domestic laws and regulations govern the recognition and enforcement of foreign judgments in your jurisdiction?

In Nigeria, the Reciprocal Enforcement of Judgments Ordinance (Cap 175 LFN 1958), the Foreign Judgment (Reciprocal Enforcement) Act (Cap F34 LFN 2004) and common law govern the recognition and enforcement of foreign judgments. The Reciprocal Enforcement of Judgments Ordinance applies to judgments rendered by courts in the United Kingdom, Ghana, Sierra Leone, Gambia, Barbados, Bermuda, British Guiana, Gibraltar, Grenada, Jamaica, the Leeward Islands, Newfoundland, New South Wales, St Lucia, St Vincent, Trinidad and Tobago, and Victoria.

The Foreign Judgment (Reciprocal Enforcement) Act applies to foreign judgments given in the superior courts of any foreign country which the minister of justice has so ordered on satisfaction that such a country accords substantial reciprocity of treatment of Nigerian judgments (Section 3(1) of the act). To date, no such order has been made by the minister. However, the act provides for its application before any such order is made. A foreign judgment given before the commencement of an order may still be registered by a superior court in Nigeria, provided that it is within 12 months from the date of the judgment or a longer period as allowed by the Nigerian court (Section 10 of the act).

If an order is made under the Foreign Judgment (Reciprocal Enforcement) Act to extend its application to a country which is subject to the Reciprocal Enforcement of Judgments Ordinance, the ordinance will cease to be the effective law for the registration and enforcement of foreign judgments from that country.

Judgments under the Foreign Judgment (Reciprocal Enforcement) Act include arbitral awards (Section 2(1) of the act). The Sheriffs and Civil Processes Act, and the various civil procedure rules of the courts before which registration and enforcement is sought, are also applicable.

Which international conventions and bilateral treaties relating to the recognition and enforcement of judgments apply in your jurisdiction?

Nigeria is not a party to any international conventions or bilateral treaties relating to the recognition and enforcement of foreign judgements. However, it is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Award 1958 (ie, the New York Convention) which applies to foreign arbitral awards.

Which courts are competent to hear cases on the recognition and enforcement of foreign judgments?

In Nigeria, the competent court for the recognition and enforcement of foreign judgments is the Federal High Court.
The courts competent to hear cases on the recognition and enforcement of foreign judgments are the high court of a state, the High Court of the Federal Capital Territory, Abuja and the Federal High Court (Section 2(1) of the Foreign Judgment (Reciprocal Enforcement) Act).

High court decisions on recognition and enforcement of foreign judgments can be appealed to the court of appeal and subsequently the Supreme Court.

Distinction between recognition and enforcement

Is there a legal distinction between the recognition and enforcement of a judgment?

Yes. A judgment is recognised where the Nigerian court accepts the judicial decision of a foreign court as a valid decision. Foreign judgments must first be recognised before they can be enforced (eg, through a writ of *fieri facias* or garnishee proceedings).

A judgment can be recognised by a Nigerian court without being enforced by it. For example, a party to a suit instituted in a Nigerian court can ask that the foreign judgment be recognised in order to rely on the defence of *res judicata*.

Once a judgment is recognised and enforced, it will – for the purpose of execution – be treated as if it was delivered by a Nigerian court.

Ease of enforcement

In general, how easy is it to secure recognition and enforcement of foreign judgments in your jurisdiction?

Where recognition and enforcement of a foreign judgment is unopposed by the judgment debtor, it is relatively easy to secure in Nigeria. The judgment creditor needs only to comply with the formalities for registration and enforcement. The formal procedure depends on the applicable law.

Under the Reciprocal Enforcement of Judgments Ordinance, the judgment creditor must apply to the High Court for leave to register the foreign judgment by a petition, either *ex parte* or on notice. The court reserves the right to direct that the other party be put on notice of an *ex parte* petition. The applicant must support the petition with an affidavit of facts, which should exhibit a certified true copy of the judgment to be registered. The supporting affidavit should state the full name, title, trade or business, and usual or last-known place of abode or business of the judgment creditor and debtor.

If the court grants leave to register the foreign judgment, the court order should be served on the judgment debtor. The order will specify a period within which the judgment debtor can apply to set aside the order granting leave to register. Where the judgment debtor does not bring an application to set aside the order, the judgment creditor can proceed to register the foreign judgment and subsequently take steps to enforce it through any judgment enforcement mechanisms (eg, writ of *fieri facias* or garnishee proceedings).

The Foreign Judgment (Reciprocal Enforcement) Act does not specify the mode for commencing the action; therefore, this will depend on the rules of the court before which the action is sought to be enforced.

To register and enforce a foreign judgment under common law, the judgment creditor should institute a case via a writ of summons and plead the foreign judgment. In addition, the judgment creditor may file a summary judgment application or apply that the suit be placed on the undefended list, as it is for enforcement of a judgment. It can easily be inferred that the judgment debtor has no defence to the claim.

Once registered, the judgment will – for the purpose of execution – be of the same force and effect as a judgment originally given in the registering court and entered on the date of registration (Section 4(2) of the Foreign Judgment (Reciprocal Enforcement) Act).
However, the registered foreign judgment will not be executed provided that, under the Foreign Judgment (Reciprocal Enforcement) Act or the applicable rules of court, any party is competent to apply for the registration of the judgment to be set aside. Where such an application is made, the judgment cannot be executed until the application has been determined (Section 4(2) of the act).

If there is an opposition (e.g., a claim that the foreign court lacked jurisdiction) or the foreign judgment had been set aside by the court at the country of origin, securing recognition and enforcement can become complex. Recognition and enforcement can be challenged on the following grounds:

- The judgment is not a judgment to which the Foreign Judgment (Reciprocal Enforcement) Act or the Reciprocal Enforcement of Judgments Ordinance applies.
- The courts of the country of origin had no jurisdiction in the circumstances of the case.
- The judgment debtor, being the defendant in the proceedings in the original court, did not receive notice of those proceedings in sufficient time to enable it to defend the proceedings and did not appear – notwithstanding that process may have been duly served on the defendant in accordance with the law of the country of the origin.
- The judgment was obtained by fraud.
- Enforcement of the judgment would be contrary to public policy in Nigeria.
- Rights under the judgment are not vested in the party by which the application for registration was made.
- The matter in dispute in the proceedings before the original court had, on the date of such court judgment, been the subject of a final and conclusive judgment by a court having jurisdiction in the matter (Section 6 of the Foreign Judgment (Reciprocal Enforcement) Act).

The foreign judgment must also satisfy the fundamental requirements of being registered (i.e., it must be a final and conclusive monetary judgment rendered by a superior court of the foreign country).

A wholly satisfied judgment will not be registered.

Opposition by the judgment debtor may lead to a trial in the matter, at least to the extent of addressing the issues raised by the judgment debtor. The judgment creditor may find itself re-litigating the case.

---

**Reform**

**Are any reforms to the framework on recognition and enforcement of judgments envisioned or underway?**

**Nigeria**

At present, no reforms to the framework on recognition of judgments are envisioned or underway.

---

**Conditions for recognition and enforcement**

**Enforceable judgments**

**Which types of judgment (e.g., monetary judgments, mandatory or prohibitory orders) are enforceable in your jurisdiction and which (if any) are explicitly excluded from recognition and enforcement (e.g., default judgments, judgments granting punitive damages)?**

**Nigeria**

Foreign monetary judgments that are final and conclusive between the parties are enforceable in Nigeria (Section 3(2) of the Foreign Judgment (Reciprocal Enforcement) Act). Such judgments must be those of a superior court of the foreign country. A superior court judgment given on appeal from a court that is not a superior court will not be considered the judgment of a superior court.

Foreign judgments in respect of taxes or other similar charges, or in respect of a fine or other penalty, are excluded from recognition and enforcement in Nigeria (Section 3(2) of the act). Judgments will also not be registered if they have been wholly satisfied or cannot be enforced by execution in the country of origin (Section 4(1) of the act). Therefore, foreign judgments giving mandatory or prohibitory orders are not enforceable in Nigeria.
How are foreign judgments subject to appeal treated?

A foreign judgment is deemed to be final and conclusive notwithstanding that an appeal may be pending against it or that it may be subject to appeal in the country of origin (Section 3(3) of the Foreign Judgment (Reciprocal Enforcement) Act).

However, after the foreign judgment is registered, an application can be brought to set aside its registration if the applicant satisfies the registering court that either an appeal is pending or it is entitled and intends to appeal against the judgment. It is at the court’s discretion to set aside the registration until after expiry of a period that it considers to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by the competent tribunal. Where the registration of a judgment is set aside under this type of application, the setting aside of the registration will not prejudice a further application to register the judgment when the appeal has been disposed of (Section 7 of the act).

Formal requirements

What are the formal and documentary requirements for recognition and enforcement of foreign judgments?

The formal procedure for seeking recognition and enforcement of a foreign judgment depends on the applicable law.

Under the Reciprocal Enforcement of Judgments Ordinance
The judgment creditor must apply to the High Court for leave to register the foreign judgment by a petition, either ex parte or on notice. The court reserves the right to direct that the other party be put on notice of an ex parte petition. The applicant must support the petition with an affidavit of facts and with a certified true copy of the judgment to be registered attached as an exhibit in support of the application. The supporting affidavit should state the full name, title, trade or business, and usual or last-known place of abode or business of the judgment creditor and debtor.

If the court grants leave to register the foreign judgment, the court order should be served on the judgment debtor. The order will specify a period within which the judgment debtor can apply to set aside the order granting leave to register. Where the judgment debtor does not bring an application to set aside the order, the judgment creditor can proceed to register the foreign judgment and subsequently take steps to enforce it through any judgment enforcement mechanisms (eg, writ of fieri facias or garnishee proceedings).

Under the Foreign Judgment (Reciprocal Enforcement) Act
The Foreign Judgment (Reciprocal Enforcement) Act does not specify the mode for commencing the action; therefore, this will depend on the procedural rules of the court before which the action is sought to be enforced.

At common law
The judgment creditor could institute a case via a writ of summons and plead the foreign judgment. In addition, the judgment creditor may file a summary judgment application or apply that the suit be placed on the undefended list, as it is for enforcement of a judgment. It can easily be inferred that the judgment debtor has no defence to the claim.

Substantive requirements

What substantive requirements (if any) apply to the recognition and enforcement of foreign judgments? Are enforcing courts in your jurisdiction permitted to review the foreign judgment on the merits?

See previous response to ‘What are the formal and documentary requirements for recognition and enforcement of foreign judgments?’
The enforcing courts are not permitted to review the foreign judgment on the merits.

Limitation period

**What is the limitation period for enforcement of a foreign judgment?**

A foreign judgment must be registered within six years of delivery or, where an appeal is pending against the judgment, within six years of the determination of the appeal (Section 4(1) of the Foreign Judgment (Reciprocal Enforcement) Act). However, until an order is made by the minister of justice, the limitation period is within 12 months from the date of the judgment or a longer period as allowed by the Nigerian courts (Section 10 of the act).

Under the Reciprocal Enforcement of Judgments Ordinance (Cap 175 LFN 1958), the limitation period for enforcement of a judgment is 12 months from the judgment being passed or a longer period as may be allowed by the court.

Grounds for refusal

**On what grounds can recognition and enforcement be refused?**

Recognition and enforcement can be challenged on the following grounds:

- The judgment is not a judgment to which the Foreign Judgment (Reciprocal Enforcement) Act or the Reciprocal Enforcement of Judgments Ordinance applies.
- The courts of the country of origin had no jurisdiction in the circumstances of the case.
- The judgment debtor, being the defendant in the proceedings in the original court, did not receive notice of those proceedings in sufficient time to enable it to defend the proceedings and did not appear – notwithstanding that process may have been duly served on the defendant in accordance with the law of the country of the origin.
- The judgment was obtained by fraud.
- Enforcement of the judgment would be contrary to public policy in Nigeria.
- Rights under the judgment are not vested in the party by which the application for registration was made.
- The matter in dispute in the proceedings before the original court had, on the date of such court judgment, been the subject of a final and conclusive judgment by a court having jurisdiction in the matter (Section 6 of the Foreign Judgment (Reciprocal Enforcement) Act).

The foreign judgment must also satisfy the fundamental requirements of being registered (ie, it must be a final and conclusive monetary judgment rendered by a superior court of the foreign country).

A wholly satisfied judgment will not be registered.

Service of process

**To what extent does the enforcing court review the service of process in the original foreign proceedings?**

The enforcing court may refuse to recognise and enforce a foreign judgment if – in its view – the judgment debtor, being the defendant in the proceedings in the original court, did not receive notice of those proceedings in sufficient time to enable it to defend the proceedings and did not appear – notwithstanding that process may have been duly served on the defendant in accordance with the law of the country of origin (Section 6 (1)(a)(iii) of the Foreign Judgment (Reciprocal Enforcement) Act).
Section 3(2)(c) of the Reciprocal Enforcement of Judgments Ordinance provides that a foreign judgment will not be registered if "the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court, and did not appear".

Public policy

What public policy issues are considered in the court’s decision to grant recognition and enforcement? Is there any notable case law in this regard?

A broad spectrum of public policy issues are considered in the court’s decision to grant recognition and enforcement. In Total Nigeria Plc v Ajayi ((2003) LPELR-6174) the Nigerian Court of Appeal held:

"[The] principle of public policy is to protect public interest by which the courts would not sanction what is injurious to public welfare or against the public good. The phrase public policy, therefore, means that policy of the law of not sanctioning an act which is against the public interest in the sense that it is injurious to public welfare or public good. But public policy, like chameleon, changes from time to time and from place to place. For a court to contend that an act or transaction is against public policy it must go further to show in what respect the act or transaction is against public policy."

In Ramon v Jinadu ((1986) 5 NWLR (Pt.39) 100) the court of appeal set aside the registration of a foreign High Court judgment due to the fact that it related to a contract that was illegal under Nigerian law.

Jurisdiction

What is the extent of the enforcing court’s power to review the personal and subject-matter jurisdiction of the foreign court that issued the judgment?

Enforcement of a foreign judgment can be challenged on the grounds that the courts of the country of the original judgment had no jurisdiction in the circumstances of the case (Sections 6(1)(a)(ii) and 6(3) of the Foreign Judgment (Reciprocal Enforcement) Act).

The Foreign Judgment (Reciprocal Enforcement) Act provides means for the Nigerian courts to decide if the foreign court had jurisdiction to hear the matter depending on the type of action that gave rise to the judgment.

For a judgment given in an action in personam, the Nigerian court will find that the foreign court had jurisdiction if the judgment debtor:

- being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of:
  - protecting or obtaining the release of property seized, or threatened with seizure, in the proceedings; or
  - contesting the jurisdiction of the court;
- was plaintiff, or counterclaimed, in the proceedings in the original court;
- being a defendant in the original court, had agreed before commencement of the proceedings to submit to the jurisdiction of that court or the courts of its country, in regard to the subject matter of the proceedings;
- being a defendant in the original court, was resident – or, being a body corporate, had its principal place of business – in the country of that court at the time that the proceedings were instituted; or
- being a defendant in the original court, had an office or place of business in the country of that court and the proceedings were in respect of a transaction effected through or at that office or place.

For a judgment given in an action for immovable property or in rem for movable property, the Nigerian court will find that the foreign court had jurisdiction if the property was, at the time of the proceedings in the original court, situated in the country of that court.

For a judgment given in an action which is not in personam or for immovable or movable property, the Nigerian court must recognise the jurisdiction of the foreign court to deliver judgment on the relevant subject matter (Section 6(2) of the Foreign Judgment (Reciprocal Enforcement) Act).
How do the courts in your jurisdiction address applications for recognition and enforcement where there are concurrent proceedings (foreign or domestic) or conflicting judgments involving the same parties/dispute?

Where there are conflicting judgments involving the same parties or disputes, a local judgment will take precedence and a foreign judgment will not be recognised or enforced.

A Nigerian court can refuse to register a foreign judgment where the matter in dispute in the proceedings in the original court had, on the date of such a court judgment, been the subject of a final and conclusive judgment by a court having jurisdiction in the matter (Section 6 (1)(b) of the Foreign Judgment (Reciprocal Enforcement) Act).

In determining whether to grant an application for recognition and enforcement of a foreign judgment where there are concurrent proceedings, the courts will have regard to whether such proceedings constitute an abuse of court process.

Opposition

What defences are available to the losing party to a foreign judgment that is sought to be recognised and enforced in your jurisdiction?

Recognition and enforcement can be challenged on the following grounds:

- The judgment is not a judgment to which the Foreign Judgment (Reciprocal Enforcement) Act or the Reciprocal Enforcement of Judgments Ordinance applies.
- The courts of the country of origin had no jurisdiction in the circumstances of the case.
- The judgment debtor, being the defendant in the proceedings in the original court, did not receive notice of those proceedings in sufficient time to enable it to defend the proceedings and did not appear – notwithstanding that process may have been duly served on the defendant in accordance with the law of the country of the origin.
- The judgment was obtained by fraud.
- Enforcement of the judgment would be contrary to public policy in Nigeria.
- Rights under the judgment are not vested in the party by which the application for registration was made.
- The matter in dispute in the proceedings before the original court had, on the date of such court judgment, been the subject of a final and conclusive judgment by a court having jurisdiction in the matter (Section 6 of the Foreign Judgment (Reciprocal Enforcement) Act).

The judgment debtor may rely on any of these grounds to oppose the registration of a foreign judgment.

Injunctive relief

What injunctive relief is available to defendants (eg, anti-suit injunctions)?

Defendants may bring an application seeking an anti-suit injunction. The courts will have regard to all the circumstances of the case when determining whether to grant such an application.
What is the formal procedure for seeking recognition and enforcement of a foreign judgment?

The formal procedure for seeking recognition and enforcement of a foreign judgment depends on the applicable law.

Under the Reciprocal Enforcement of Judgments Ordinance
The judgment creditor must apply to the High Court for leave to register the foreign judgment by a petition, either *ex parte* or on notice. The court reserves the right to direct that the other party be put on notice of an *ex parte* petition. The applicant must support the petition with an affidavit of facts and with a certified true copy of the judgment to be registered attached as an exhibit in support of the application. The supporting affidavit should state the full name, title, trade or business, and usual or last-known place of abode or business of the judgment creditor and debtor.

If the court grants leave to register the foreign judgment, the court order should be served on the judgment debtor. The order will specify a period within which the judgment debtor can apply to set aside the order granting leave to register. Where the judgment debtor does not bring an application to set aside the order, the judgment creditor can proceed to register the foreign judgment and subsequently take steps to enforce it through any judgment enforcement mechanisms (eg, writ of *fieri facias* or garnishee proceedings).

Under the Foreign Judgment (Reciprocal Enforcement) Act
The Foreign Judgment (Reciprocal Enforcement) Act does not specify the mode for commencing the action; therefore, this will depend on the procedural rules of the court before which the action is sought to be enforced.

At common law
To register and enforce a foreign judgment, the judgment creditor should institute a case via a writ of summons and plead the foreign judgment. In addition, the judgment creditor may file a summary judgment application or apply that the suit be placed on the undefended list, as it is for enforcement of a judgment. It can easily be inferred that the judgment debtor has no defence to the claim.

What is the typical timeframe for the proceedings to grant recognition and enforcement?

Barring any complications, the process for recognition and enforcement of a foreign judgment can take between six months and one year. However, the completion time may be longer where the registration is opposed by the judgment debtor.

The timeframe within which proceedings are concluded will also depend on the size of the court’s docket.

What fees apply to applications for recognition and enforcement of foreign judgments?

The fees for recognition and enforcement of a foreign judgment are assessed by the registry of the court in which recognition and enforcement is sought.
Must the applicant for recognition and enforcement provide security for costs?

It is not compulsory for the applicant to provide security for costs. Instead, it is at the court’s discretion to require the applicant to provide this (Section 5(1)(a) of the Foreign Judgment (Reciprocal Enforcement) Act). Where security for costs is ordered by the court, then it becomes compulsory for the applicant to provide same.

Appeal

Are decisions on recognition and enforcement subject to appeal?

Yes. Decisions on recognition and enforcement can be appealed to the court of appeal and subsequently the Supreme Court.

Other costs

How does the enforcing court address other costs issues arising in relation to the foreign judgment (eg, calculation of interest, exchange rates)?

In addition to the sum of money payable under the judgment of the original court (including any interest which, by the law of that country, is due under the judgment up to the time of registration), the judgment will be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified true copy of the judgment from the original court (Section 4(6) of the Foreign Judgment (Reciprocal Enforcement) Act). The sum for which a judgment is registered will also carry interest (Section 4(2)(c) of the act).

Where the sum payable under a judgment to be registered is expressed in a currency other than the currency of Nigeria, the judgment will be registered as if it were a judgment for such sum in the currency of Nigeria based on the exchange rate on the date of the original judgment (Section 4(3) of the act).

Enforcement against third parties

To what extent can the courts enforce a foreign judgment against third parties?

A judgment binds only the parties to the proceedings. Therefore, a foreign judgment will not be enforced against third parties.

Partial recognition and enforcement

Can the courts grant partial recognition and enforcement of foreign judgments?
Yes, the courts can grant partial recognition and enforcement of judgments (Section 4(5) of the Foreign Judgment (Reciprocal Enforcement) Act). If it appears to the court that a foreign judgment is in respect of different matters, some of which cannot be registered by the court, then it can register the provisions that – in its view – are registrable and refuse to register the other parts of the judgment.

Further, if a foreign judgment has been partly satisfied at the date of application for registration, the court will register the foreign judgment in respect of the sum as yet unpaid under the judgment (Section 4(4) of the act).