ARBITRATION WATCH

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Laws & Treaties

Ireland approves arbitration bill to ratify agreements with investment protection clauses

In November 2025, the Irish Government approved the Arbitration (Amendment) Bill 2025, a targeted legislative adjustment designed to enable Ireland to ratify the EU–Canada Comprehensive Economic and Trade Agreement (CETA). The Bill introduces a specialised mechanism for recognising and enforcing awards issued by CETA's Investment Court System, following constitutional concerns raised in earlier domestic litigation.

CETA awards would then be enforceable in Ireland through a dedicated statutory route rather than through the existing regime based on the 2010 Arbitration Act. The Irish Government emphasised that the scheme preserves Ireland's regulatory autonomy while ensuring compliance with EU treaty obligations. Once enacted, this Bill is expected to strengthen Ireland's position as a neutral seat for investor-state disputes, particularly those arising under EU investment treaties.

Nigeria revisits arbitration-related litigation and cross-border enforcement issues

Recent case law in Nigeria has brought renewed attention to the interaction between the Arbitration and Mediation Act 2023 and the country's enforcement obligations under the New York Convention. Nigerian courts have been asked to address challenges concerning jurisdictional objections, interim measures, and the recognition of foreign arbitral awards.

Recent decisions of the Nigerian courts in late 2025 have drawn attention to the practical operation of the Arbitration and Mediation Act 2023 ('AMA 2023'), particularly in relation to jurisdictional objections and the enforcement of foreign arbitral awards.

One strand of cases has concerned attempts by parties to halt arbitral proceedings based on alleged defects in the arbitration agreement. Nigerian courts have, in several rulings this autumn, reaffirmed the competence-competence principle contained in section 18 of the AMA 2023, holding that challenges to the validity or scope of an arbitration clause should ordinarily be addressed by the tribunal in the first instance. Applications for injunctions aimed at stopping foreign-seated arbitrations have been treated with increasing scepticism, with courts stressing the statutory presumption in favour of giving effect to parties' chosen dispute-resolution mechanism.

A second line of decisions deals with recognition and enforcement of New York Convention awards. Courts in Lagos and Abuja have been asked to scrutinise awards arising out of energy-sector and construction disputes. While the overall trend remains pro-enforcement, judges have shown a willingness to examine allegations of procedural irregularity, particularly claims of inadequate notice or inability to present one's case. At the same time, courts have rejected wide interpretations of the "public policy" defence, noting that the defence must be applied narrowly and cannot be used to revisit the merits of the dispute.

These developments are significant for cross-border transactions involving Nigerian counterparties. They suggest that while Nigerian courts are committed to supporting arbitration under the AMA 2023, parties should still expect careful judicial review of procedural fairness when foreign awards are brought for recognition. The pattern emerging in the final quarter of 2025 points to a maturing enforcement environment, one that is broadly arbitration-friendly but attentive to the limits set by due process and local public-policy standards.

Arbitration centres

CAM-CCBC in Brazil introduces a new set of arbitration rules

The Arbitration Rules 2025 of the Centro de Arbitragem e Mediação da Câmara de Comércio Brasil-Canadá (CAM-CCBC) came into force on 3 November 2025. The revised framework updates procedures across several areas, including arbitrator appointments, disclosure standards, consolidation, and case management.

The Rules aim to enhance procedural predictability, streamline communications, and accommodate digital case handling. Given CAM-CCBC's position as one of Latin America's leading arbitral institutions, these updates are likely to influence regional drafting practices and reinforce São Paulo's status as a preferred arbitral seat.

KCAB International in Korea announces a new set of rules and a new arbitration court

The Korean Commercial Arbitration Board ('KCAB) International confirmed the adoption of its 2026 Arbitration Rules, entering into force on 1 January 2026, alongside the creation of a new International Arbitration Court. The Court will assume responsibility for key administrative decisions, such as arbitrator appointments, challenges, consolidation, and related procedural determinations, bringing KCAB's governance structure closer to the ICC model.

The 2026 Rules introduce fast-track provisions, updated cybersecurity guidance, expanded support for online hearings, and mechanisms for early dismissal of unmeritorious claims. The reforms underscore KCAB International's ambition to position Seoul as a leading arbitration hub in the Asia-Pacific region.

Baku Arbitration Centre in Azerbaijan becomes formally operational

The Baku Arbitration Centre ('BAC') has now been formally launched following its inauguration during the Azerbaijan Arbitration Days in late October 2025. The Centre is built on the foundations of Azerbaijan's 2023 Law on International Arbitration, which modernised the national framework and aligned it with UNCITRAL-based best practice.

The BAC is intended to serve as a regional dispute-resolution hub for the Caspian and wider Caucasus region, with an expected caseload in energy, infrastructure, and cross-border commercial disputes. November commentary highlights the Centre's operational readiness, signalling an uptick in institution-administered arbitration within Azerbaijan.

Investment Arbitration

LSF-KEB Holdings SCA and others v Republic of Korea,Case No. ARB/12/37 Annulment decision dated 18 November 2025

The long-running dispute between Lone Star and the Republic of Korea reached a significant stage in November of this year, when an ICSID Ad hoc Committee decided to annul substantial parts of the ICSID award dated 30 August 2022, which had held Korea liable for the violation of the Belgium-Korea BIT. The original tribunal had awarded the claimants approximately USD 216 million, a sum that is far below their initial claim of USD 4.7 billion but is nonetheless substantial.

Korea challenged the ICSID award before an Ad hoc Committee on the basis of Article 52 of the ICSID Convention, which says: *"(1) Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds: (…) (d) that there has been a serious departure from a fundamental rule of procedure"*.

The Ad hoc Committee found a serious departure from a fundamental rule of procedure in the ICSID arbitration. The central criticism concerned the tribunal's reliance on the findings made in a separate ICC arbitration between Lone Star and a private counterparty named Hana Financial

Group, a commercial dispute in which Korea had not participated. The tribunal had adopted evidence from the ICC arbitration award, relying on it to establish that the acts of the Financial Services Commission, Korea's financial regulator, were illegal and engaged state responsibility. The Ad hoc Committee held that using those findings as determinative evidence, without affording Korea an opportunity to contest them, constituted a serious violation of the principle of due process, a fundamental rule of procedure under international law. This resulted in the annulment of all parts of the original award that recognized the government's compensation liability.

Case note: England & Wales

Operafund Eco-Invest SICAV Plc and Schwab Holding AG v Kingdom of Spain [2025] EWHC 2874 (Comm)

Facts: The claimants, Operafund Eco-Invest SICAV Plc and Schwab Holding AG, had secured an ICSID award against Spain under the Energy Charter Treaty ('ECT'). In the said award, Spain was ordered to pay damages for revoking renewable energy incentives. The claimants registered the ICSID award in England pursuant to the Arbitration (International Investment Disputes) Act 1966. In January 2024, they assigned "all rights and interests" in the ICSID award to Blasket Renewable Investments LLC, which sought to be substituted as claimant in the English enforcement proceedings.

Spain opposed substitution, arguing that ICSID awards are not assignable under the ICSID Convention or the ECT, and that no issue estoppel arose from Australian proceedings in which assignability had been considered. The question for the Commercial Court was whether the assignment was valid and, if not, whether Blasket could nonetheless step into the enforcement action.

Held: The Commercial Court refused the substitution. HHJ Pelling KC held that there was no issue estoppel, as the Australian judgment was not final and conclusive, and Spain had not submitted to that jurisdiction for estoppel purposes. On the substantive question, the Court concluded that ICSID awards are not capable of assignment as a matter of treaty interpretation. The judge emphasised that the Convention creates a self-contained enforcement mechanism and that the investor's rights under an ICSID award are inherently personal. In a key passage, he stated: "*As a matter of construction of the ICSID Convention, awards made in arbitrations convened in accordance with it are not capable of assignment.*" He further held that registration under the 1966 Act does not create a new set of assignable domestic rights; registration merely gives the award the same force and effect as a High Court judgment for enforcement purposes. The decision has significant implications for award-trading practices, particularly for entities seeking to purchase and enforce ICSID awards through specialist vehicles.

Tip of the Month:

☑ Does the arbitration agreement survive the termination of the main contract?

Parties to arbitration proceedings often assume that the arbitration agreement embedded in a dispute resolution clause continues after the main contract ends, but that is not always clear from the drafting. If the main contract is terminated due to a breach and there is no survival wording, the parties may later argue over whether the arbitration agreement is still effective, adding delay and cost before the merits are even reached. A simple survival clause may avoid this undesirable uncertainty. So, when drafting or reviewing their contracts, the parties may want to check if the arbitration agreement is expressly stated to remain in force after termination, cancellation, or expiry.

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This publication does not constitute legal advice.

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