



No Shortcuts to Court: The NICN Reinforces Mandatory ADR in Employment/Trade Disputes

Introduction:

Parties to employment and trade disputes are often eager to head straight to court. Nigerian law generally takes a different view: where the law or the parties' own agreement prescribes a dispute resolution process, those steps must ordinarily be completed before the courthouse doors open. In the case of **Nexus Alliance Limited & Anor v. NUPENG & 42 Ors** (Suit No. NICN/ABJ/283/2025, Ruling delivered on 6 May 2026), the National Industrial Court of Nigeria (NICN) reaffirmed this principle, striking out a suit brought by an employer against a trade union for want of due process.

Background

The dispute arose after Nexus Alliance Limited and its

co-claimant alleged that the Nigeria Union of Petroleum and Natural Gas Workers ("NUPENG") and 42 others breached the grievance procedure in the parties' 2024 Collective Bargaining Agreement (CBA) before embarking on strikes and lockouts at the Amenam OML 99 Project. Nexus Alliance Ltd. asked the Court to declare the union's conduct unlawful and to restrain further industrial action.

NUPENG raised a threshold objection. It argued that the dispute was a trade dispute under the Trade Disputes Act (TDA) and that the mandatory dispute resolution process had not been exhausted before Nexus Alliance Ltd. approached the Court.

How the TDA Dispute Resolution Ladder Works

The TDA sets out a graduated process that must generally be climbed, rung by rung, before a trade dispute reaches the NICN:

- **Self-resolution and mediation:** the parties must first attempt to settle the dispute using any procedure they have agreed, failing which they meet under a mediator mutually agreed between them. (section 4, TDA)
- **Report to the Minister:** if the dispute remains unresolved, it must be reported to the Minister of Labour and Employment.
- **Conciliation and arbitration:** the Minister appoints a conciliator to attempt a settlement; if conciliation fails, the Minister refers the dispute to the Industrial Arbitration Panel ("IAP"). (sections 6, 8 and 9, TDA)

Key Highlights of Court's Decision

- **The TDA process must generally be followed:** Where a dispute between an employer and employees (or among employees) relates to employment, the terms of employment, or working conditions (a "trade dispute"), parties are generally required to complete the process prescribed by the TDA before approaching the NICN.
- **Agreed grievance procedures matter:** Where employment contracts or CBAs contain grievance procedures, parties are expected to follow them. In this case, the CBA itself required unresolved disputes to proceed under the TDA.
- **Notifying the Minister of Labour is not enough:** Parties must also complete the mediation, conciliation, and Industrial Arbitration Panel (IAP) stages required under the TDA.
- **The interpretation exception is limited:** Parties may approach the NICN directly where a dispute genuinely concerns the interpretation of a collective agreement. The Court held that this exception did not apply because the claim raised no genuine question of interpretation.
- **The suit was struck out:** Because the required dispute resolution process had not been completed, and

the interpretation exception did not apply, the Court struck out the suit without determining its merits.



What This Means for Stakeholders

- **For employers and HR teams:** Workplace disputes should be managed in accordance with the procedures set out in employment contracts, CBAs, and the TDA. Following the agreed process can help avoid delays and procedural challenges.
- **For employees and trade unions:** Before commencing legal proceedings, parties should ensure that the applicable grievance procedures and dispute resolution requirements have been met.
- **For legal advisers:** Where reliance is placed on the TDA's interpretation exception, the claim should clearly identify the provision requiring interpretation. Simply seeking declaratory or injunctive relief may not be enough.

The Road Forward

The decision reinforces the importance of following agreed and statutory dispute resolution procedures before seeking the Court's intervention. Employers should review employment contracts, collective bargaining agreements, and grievance policies to ensure they provide clear and practical pathways for resolving disputes before they escalate into litigation and should be prepared to complete each stage of that pathway, not merely begin it.

For guidance on employment dispute resolution, labour arbitration, mediation, collective bargaining, and proceedings before the National Industrial Court and other specialist tribunals, contact info@scp-law.com or visit www.scp-law.com.