

LESSONS FROM THE LIMITS OF SOVEREIGN/ DIPLOMATIC IMMUNITY IN INTERNATIONAL TRADE OR COMMERCIAL TRANSACTIONS: - THE CASE OF THE CHINESE COMPANY, MESSRS ZHONGSHAN F.I.I COY LTD AGAINST OGUN STATE OF NIGERIA ON ENFORCEMENT OF ARBITRAL AWARD, RESULTING INTO THE SIEZURE OF THREE NIGERIAN PRESIDENTIAL JETS UNDERGOING MAINTENANCE IN FRANCE BY A FRENCH COURT ON 15TH AUGUST, 2024

1. A fundamental principle of international law is that, a sub-national entity like Ogun state, within the federation of Nigeria, is NOT A SUBJECT OF INTERNATIONAL LAW, and so the provisions of international law in any trade, commercial or investment (bilateral treaty or Agreement) is DIRECTLY APPLICABLE ONLY TO THE FEDERATION OF NIGERIA (represented by the federal government of Nigeria).
2. Hence the federal government of Nigeria is directly answerable for the actions or omissions of its subnational-state governments in such international relations, without or with the consent or knowledge of the federal government of Nigeria.
3. The supreme Court of Nigeria, had earlier affirmed this principle of international law in the case of Attorney General of the Federation against the Attorney General of Abia State (No.2), (2002) 6 NWLR (pt.764) p.542, SC.
4. In international law, the concept of RESTRICTIVE immunity applies to DENY SOVEREIGN/DIPLOMATIC IMMUNITY, to any nation-state like Nigeria, that enters into any international trade or commercial transactions, from legal action instituted against it or its sub-national entity in respect of any dispute arising from the commercial, trade or investment transactions.
5. The supreme court of Nigeria again in the case of African Re-corp v. JDP construction ltd (2007) 11 NWLR (pt.1045) p.224, SC, affirmed this restrictive concept that sovereign or Diplomatic immunity DOES NOT EXTEND TO /COVER commercial purposes.

6. Moving forward, the ministry of foreign Affairs and the office of the Attorney General of the federation/Minister of Justice should go beyond cautioning its subnational entities like Ogun state government, Committing Nigeria to such commercial transactions.
7. There is a need for a joint review of technical experts nominated by the Ministries of Justice and Foreign Affairs to scrutinize such proposed agreements and advise appropriately on the legal implications and liability regime of relevant stakeholders.
8. There is the need for a national database or register for documenting and tracking all such agreements as well as monitoring compliance with them.

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