CORRUPTION / THE AWARD AND THE AFTERMATH

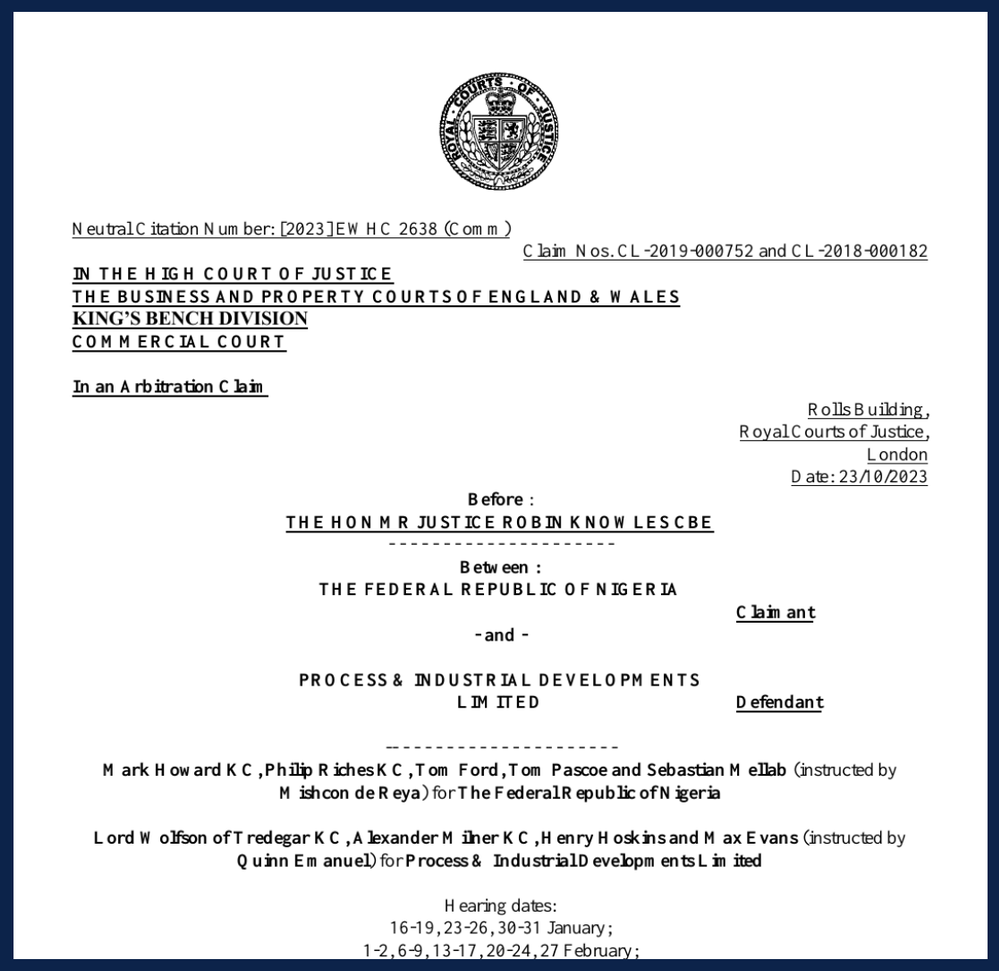
Corruption behind the $11bn award.

NIGERIA v P&ID

THE COURT FOUND

"the Awards were obtained by fraud"

Robin Knowles J
High Court, 23 October 2023



Neutral Citation Number: [2023] EWHC 2638 (Comm)
Claim Nos. CL-2019-000752 and CL-2018-000182

IN THE HIGH COURT OF JUSTICE
THE BUSINESS AND PROPERTY COURTS OF ENGLAND & WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

In an Arbitration Claim

Rolls Building,
Royal Courts of Justice,
London
Date: 23/10/2023

Before :
THE HON MR JUSTICE ROBIN KNOWLES CBE

Between :
THE FEDERAL REPUBLIC OF NIGERIA
Claimant
- and -
PROCESS & INDUSTRIAL DEVELOPMENTS LIMITED
Defendant

Mark Howard KC, Philip Riches KC, Tom Ford, Tom Pascoe and Sebastian Mellab (instructed by Mishcon de Reya) for The Federal Republic of Nigeria

Lord Wolfson of Tredegar KC, Alexander Milner KC, Henry Hoskins and Max Evans (instructed by Quinn Emanuel) for Process & Industrial Developments Limited

Hearing dates:
16-19, 23-26, 30-31 January;
1-2, 6-9, 13-17, 20-24, 27 February;

JUDGMENT FACSIMILE

How concealed bribes, false evidence and access to Nigeria's legal strategy undid a vast award - and what the 2025 reforms leave to existing law.

Case report and ArbitrationBITS analysis. J1: paras 493-496, 574; J4: para 2.

01 / THE TRANSACTION

A gas project that never got built.

On 11 January 2010, Nigeria and Process & Industrial Developments Ltd, a British Virgin Islands company, signed a gas supply and processing agreement. Nigeria would supply wet gas; P&ID would process it, return lean gas for power generation and sell the remaining liquids.

The agreement was to run for 20 years, with a possible extension. Nigeria supplied no wet gas and P&ID built no processing facilities. P&ID commenced arbitration in August 2012 and secured a liability award in July 2015.

$6.6bn

Lost profits awarded in 2017, plus interest at 7%.

$11bn+

Exposure with interest by the 2023 court proceedings.

J1: paras 1-10, 391-396, 496. Historical award figures; the awards were subsequently set aside.

02 / THE CHRONOLOGY

From contract to court intervention.

11 JAN 2010	**The agreement** Nigeria and P&ID sign the gas supply and processing agreement.
22 AUG 2012	**The arbitration** P&ID begins the proceedings that produce the disputed awards.
2015 / 2017	**Liability, then quantum** The tribunal finds Nigeria liable, then awards $6.6bn plus 7% interest.
04 SEP 2020	**Time to challenge** Sir Ross Cranston allows Nigeria to pursue its challenge out of time.
23 OCT 2023	**The fraud findings** Knowles J upholds the section 68 challenge; the remedy is reserved.
08 DEC 2023	**The awards set aside** The court chooses setting aside over remission. Written reasons follow on 21 December.

J1: paras 1, 10, 496, 574-577. J2: judgment date, paras 274-276. J3: paras 4-6.

03 / THE FINDINGS

Three ways the process was corrupted.

1 **Knowingly false evidence**

Michael Quinn presented an account of how the contract came about that concealed bribes to Grace Taiga, then a senior legal official in Nigeria's petroleum ministry. The omitted payments included US$5,000 in December 2009 and £5,000 in March 2010.

2 **Payments that bought silence**

P&ID; continued making corrupt payments during the arbitration to suppress the earlier bribery. Concealment therefore continued while the tribunal was deciding the dispute.

3 **Access to the opponent's legal strategy**

More than 40 internal Nigerian legal documents reached P&ID; during the arbitration. P&ID; retained them to monitor Nigeria's position and its awareness of the deception.

J1: paras 493-497, especially 494 (false evidence), 495 (payments) and 496 (documents).

04 / THE LEGAL DISTINCTION

A corrupt contract. An award obtained by fraud.

Those are separate legal questions. Under separability, an attack on the underlying contract does not automatically invalidate the arbitration agreement. The tribunal ordinarily decides whether the main contract was procured by bribery and what follows from that.

Section 68(2)(g) instead addresses fraud in obtaining an award, or an award or its procurement being contrary to public policy. A causal story linking a bribe to the contract was insufficient by itself. The court examined how the arbitration and awards had actually been corrupted.

A LIMIT ON THE JUDGMENT

Knowles J rejected the claim that P&ID; had entered the agreement solely as a device to extract an award or settlement. He found an original intention to perform. The successful challenge rested on the later abuses proved in the arbitration.

J1: paras 480-492, 493-497. L1: sections 7 and 68(2)(g).

05 / PROOF AND SUBSTANTIAL INJUSTICE

Why the fraud changed the legal result.

THE STATUTORY THRESHOLD

Section 68 requires a listed serious irregularity that has caused or will cause substantial injustice. The court does not use it to rehear an ordinary disagreement over facts, law or damages.

Here, disclosure of the bribery would have transformed the arbitration: it would have raised whether the agreement was voidable and altered the tribunal's assessment of Quinn's evidence. The legal-document leaks also compromised Nigeria's ability to obtain confidential advice throughout the process.

THE EVIDENTIAL DISCIPLINE

The civil standard was the balance of probabilities; the judge required convincing evidence of dishonesty. He also recognised the limits of reconstructing every tactical advantage created by sustained covert access to privileged material. Suspicion alone did not establish the case.

J1: para 25, paras 498-517. L1: section 68(2).

06 / TIME LIMITS AND LOST OBJECTIONS

Fraud did not remove the procedural hurdles.

TIME TO BRING THE CHALLENGE

The usual section 70 challenge period is 28 days, subject to the applicable statutory starting point. Nigeria needed an exceptional extension under section 80(5). In 2020, the court balanced the extraordinary delay against a strong prima facie fraud case and the evidence of concealment.

KNOWLEDGE DURING THE ARBITRATION

Section 73 was a separate obstacle. Continuing without timely objection risks losing the right to complain, unless the party did not know, and could not with reasonable diligence have discovered, the grounds at the time. Nigeria satisfied that test on the final findings in 2023.

Why this matters: a fraud allegation is not a standing exemption from deadlines or waiver. A challenge needs evidence of the wrongdoing, its discovery and why the grounds were not reasonably discoverable earlier. The 2020 interim findings were not the final trial findings.

J2: paras 261-276. J1: paras 518-540, 573, 595. L1: ss 70(3), 73, 80(5); L2: s 12.

07 / THE REMEDY

Why the court set the awards aside.

The October 2023 judgment upheld Nigeria's challenge but left the remedy for later argument. On 8 December, the court chose to set aside the liability and final awards. Its written reasons were issued on 21 December.

Section 68(3) ordinarily directs the court towards remission: setting aside or declaring an award ineffective requires the court to be satisfied that reconsideration by the tribunal would be inappropriate.

THE DECISIVE POINT

The tribunal had reached liability and quantum conclusions on false foundations. Knowles J saw no real prospect of justice through reconsideration. That conclusion was based on P&ID;'s conduct, rather than misconduct by the tribunal. Permission to appeal the substantive decision was refused.

J1: paras 574-577. J3: paras 4-5, 42-46. L1: section 68(3).

08 / MECHANISMS INSIDE THE ARBITRATION

The tribunal already has tools to ask more.

s 34

Test the record

Subject to the parties' agreement, the tribunal can order document production, ask questions, assess evidence and take initiative on facts and law.

s 38

Preserve evidence

Unless otherwise agreed, it may direct a party to preserve evidence in its custody or control, and examine parties or witnesses on oath.

s 41

Respond to non-compliance

Non-compliance with a peremptory order can justify adverse inferences. The statutory conditions and a fair opportunity to respond still apply.

The boundary: section 33 requires fairness and impartiality. Targeted inquiry must give each side a reasonable opportunity to address the material and the proposed inference. These are adjudicative powers, not police powers.

L1: ss 33, 34(1)-(2), 38(5)-(6), 41(5)-(7). Current statutory mechanisms, not case findings.

09 / MECHANISMS OUTSIDE THE ARBITRATION

Where court support becomes important.

1 **Evidence and preservation**

Section 43 permits court procedures to secure a UK witness's attendance or documents, with the required permission or agreement and territorial conditions. Section 44 supports witness evidence, preservation and specified interim relief; it is not a general disclosure code.

2 **Control of the award**

Section 68 provides the English supervisory challenge used in this case. For Convention awards, section 103 separately permits refusal of recognition or enforcement on specified grounds, including public policy. The two routes ask different questions.

The 2025 Act expressly confirms that section 44 orders may concern a party or another person. The existing limits still apply, including the tribunal's inability to act effectively. Enforcement abroad remains for the relevant court under its applicable law.

L1: ss 43, 44(1)-(5), 68, 103(2)(f), 103(3). L2: s 9. J1: para 586.

10 / PRIVACY AND PROFESSIONAL RESPONSIBILITY

The warning reaches beyond the bribe.

Knowles J questioned how effectively a private process had scrutinised a dispute involving public money. Poor instructions, inadequate expert work and weak state participation had left the tribunal without the assistance it should have received. He asked whether more intervention and visibility were needed in major state disputes.

That criticism has limits. The judge did not find Nigeria's arbitration lawyers corrupt. Nor did he treat an honest lawyer's poor performance as a section 68 remedy. He did refer the conduct of two of P&ID;'s former lawyers to their professional regulators.

ARBITRATIONBITS ANALYSIS

A state's formal participation can conceal a failure of effective representation. Targeted judicial support, secure legal-document handling and independent internal oversight address different parts of that problem. Confidentiality requires safeguards; disclosure must still respect privilege and lawful limits.

J1: paras 585-594, particularly 587-591 and 593. Analysis is distinguished from the holdings.

11 / THE ARBITRATION ACT 2025

No express corruption provision in the 2025 Act.

The 2025 Act amends the 1996 framework. It contains no express corruption provision and leaves section 68(2)(g)'s fraud and public-policy route in place. It creates no general statutory duty to investigate corruption by the parties.

23A

A DIFFERENT SAFEGUARD

New section 23A requires disclosure of circumstances that might reasonably give rise to justifiable doubts about an arbitrator's impartiality. This includes what the individual ought reasonably to know.

That obligation concerns arbitrator impartiality. It does not itself expose concealed party bribery or leaked legal advice.

The substantive reforms took effect on 1 August 2025, subject to transitional rules. They do not apply retrospectively to this earlier arbitration and its connected court proceedings.

L2: ss 2, 9, 17(4), and the Act as a whole. L3: reg 2. L1: ss 23A, 68(2)(g).

12 / THE LEGISLATIVE CHOICE

Parliament considered the corruption question.

In August 2024, the government explained why it opposed a new anti-corruption amendment. It said the existing law, professional obligations and arbitral procedures already offered a flexible response. None of the institutions it had consulted supported changing the Bill on that issue.

The government treated Nigeria v P&ID; as an exceptional case in which the court had performed its corrective role. During the September 2024 Lords debate, the proposed corruption amendment was withdrawn.

ARBITRATIONBITS ANALYSIS

That is a defensible argument about legal powers. It is less conclusive about early detection. A successful challenge proves that correction was available; it cannot establish that hidden misconduct will reliably reach a court. The harder policy test concerns access to evidence, cost and effective scrutiny before enforcement.

P1: pp 2-3, "Arbitral Corruption". P2: debate of 11 September 2024. J1: paras 581-583.

13 / TURNING SUSPICION INTO EVIDENCE

A credible response needs a method.

The ICC's 2024 guidance treats red flags as a starting point: identify the indicators, test whether they are substantiated, then assess their evidential significance. A warning sign requires reasoning and proof before it supports a corruption finding.

ARBITRATIONBITS / PROPOSED SAFEGUARDS

01 **Define the concern.**

Identify the transaction, payment, witness account or document flow requiring an explanation.

02 **Preserve and test.**

Secure original records and metadata; use proportionate production and witness questioning.

03 **Protect the process.**

Quarantine suspected privileged leaks and seek directions; do not exploit the opponent's advice.

04 **Give notice and reasons.**

Hear both sides, state the applicable proof standard and explain the inference actually drawn.

G1: Executive summary, pp 36-37. L1: ss 33-34, 38. Numbered safeguards are our recommendations.

14 / THE COST OF CORRECTING THE RECORD

The award fell. The costs fight continued.

£44.217m

Nigeria's unassessed legal costs, excluding interest, recorded by the Supreme Court in 2025.

On 22 October 2025, the Supreme Court dismissed P&ID;'s appeal on the currency of the costs order. Nigeria had been billed and had paid in sterling; the costs were to be assessed in sterling. That appeal did not reopen the merits of the fraud decision.

ARBITRATIONBITS ANALYSIS

P&ID; demonstrates the strength and the expense of court supervision. The existing law could defeat awards obtained by fraud, but only after exceptional investigative and litigation effort. The next question is how to make proportionate scrutiny, honest disclosure and protection of legal advice work earlier in the process.

J4: paras 1-2, 25-31. J1: paras 581-586, 595. Costs were unassessed, not a final recovery figure.

AUTHORITIES / CLICK TO OPEN

The primary record.

The report uses the judgments, enacted legislation and the parliamentary record. Page footers identify the precise provisions and paragraphs; commentary labelled ArbitrationBITS analysis expresses our assessment.

J1 **The fraud judgment**
[2023] EWHC 2638 (Comm)
Facts: 1-10. Findings: 493-497. Law: 480-517, 573-577. Reflections: 580-595.

J2 **The extension of time**
[2020] EWHC 2379 (Comm)
Interim decision. Paras 261-276 explain the exceptional extension and its factual basis.

J3 **Setting aside and appeal**
[2023] EWHC 3320 (Comm)
Paras 4-6, 42-46: remedy, refusal of permission, and why remission was inappropriate.

J4 **The Supreme Court costs appeal**
[2025] UKSC 36
Paras 1-2, 25-31. Judgment: 22 October 2025. The issue was the currency of costs.

L1 **Arbitration Act 1996**
As amended
Sections 7, 23A, 33-34, 38, 41, 43-44, 68, 70, 73, 80 and 103.

L2 **Arbitration Act 2025**
2025 c.4
Sections 2, 9, 12 and 17. The Act contains no express corruption provision.

L3 **Commencement regulations**
SI 2025/905, regulation 2
Substantive commencement: 1 August 2025. Read with section 17 of the 2025 Act.

P1 **The government's explanation**
Lord Ponsonby, 15 August 2024
Pages 2-3, "Arbitral Corruption": consultation responses and the decision against amendment.

P2 **The parliamentary debate**
House of Lords, 11 September 2024
The corruption amendment, the existing safeguards and withdrawal of the amendment.

G1 **ICC red-flags guidance**
ICC Bulletin 2024, Issue 2
Executive summary, printed pp 36-37. Non-binding guidance; separate from the case holdings.

Judgment text and cover facsimile: Crown copyright, reproduced from The National Archives under the Open Justice Licence. Case report and analysis: ArbitrationBITS. Publication: 23 October 2026.

ArbitrationBITS | arbitrationbits@gmail.com | Editorial case report and analysis