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**PRESIDENTIAL JET SEIZURE:
ZHONGSHAN FUCHENG INDUSTRIAL
INVESTMENT V FEDERAL REPUBLIC
OF NIGERIA**



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On August 14, 2024, it was reported that a French court had seized three Nigerian presidential jets which are a representation of prestige and national sovereignty. This action was taken at the request of the Chinese company “Zhongshan Fucheng Industrial Investment (ZFII)”, which sought to enforce a \$70 million arbitral award against Nigeria, granted on March 26, 2021. The dispute arose from an alleged breach of the Bilateral Investment Treaty (BIT) between China and Nigeria by the Nigeria Police, NEPZA, and the Ogun State Government, all of whom were involved in a joint venture to develop the Ogun Guangdong Free Trade Zone. The Arbitral Tribunal ruled in favor of ZFII, citing customary international law and the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts. These articles attribute wrongful acts by state organs to the state itself.

The seizure has sparked legal debates, particularly about whether the French court had jurisdiction to enforce the award. Since the arbitral award is governed by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and both France and Nigeria are signatories, the French court is deemed to have the authority to enforce the award. The enforcement action by ZFII is not limited to France; similar actions have been initiated in the US, UK, British Virgin Islands etc., all of which are also signatories to the New York Convention.

Another key issue is the doctrine of Sovereign Immunity and whether Nigeria can use it as a defense. The case has spurred discussions about the boundaries of sovereign immunity, a legal doctrine that shields a state and its property from proceedings in foreign courts. The District of Columbia (D.C) Court of Appeal, in *PAO Tatneft v. Ukraine*, upheld that if a foreign state agrees to arbitrate in a country that has signed the New York Convention, it effectively waives its sovereign immunity in all signatory countries. This is based on the premise that by becoming a signatory to the Convention, a state must anticipate enforcement actions in other signatory states. Consequently, Nigeria may not be able to invoke sovereign immunity to protect its assets from enforcement in any court within a New York Convention signatory state.

The case serves as a cautionary tale for sovereign states involved in international commerce, emphasizing how crucial it is for governments to carefully oversee international agreements and honour international obligations. The consequences of non-compliance/breaches might go beyond monetary fines and affect issues of pride and sovereignty. Solicitor's role in such cross-border matters also cannot be overstated. As the legal battle continues, it will be closely watched by legal experts, policymakers, and international investors, given its broader implications for international law and diplomacy.
