

TURBULENT JURISDICTION: MAPPING THE BOUNDARIES OF NIGERIAN AVIATION CLAIMS



Introduction

Aviation disputes in Nigeria have a dimension that many other commercial disputes lack: the asset at the centre of the dispute can be airborne and out of the country within hours. The asset generates revenue only when it is airborne, but it can also be used to easily evade judgment and frustrate creditors by leaving a jurisdiction before a claimant has had the chance to secure relief.

This article examines the practical framework governing aviation claims in Nigeria. It outlines which court has jurisdiction, analyzes the legal rules for detaining an aircraft, and clarifies how to distinguish a genuine aviation claim from a standard commercial dispute. The aim is to provide airlines, lessors, cargo operators, and passengers with the practical legal knowledge needed to successfully handle, win, or settle disputes in the Nigerian aviation sector by analyzing the Nigerian Constitution, relevant statutes, case law, and relevant applicable international conventions.



The Jurisdiction of the Federal High Court Over Aviation Matters

2.1 The Constitutional and Statutory Foundation

The starting point for this discourse is **Section 251(1)(k) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**, which confers exclusive jurisdiction on the Federal High Court (FHC) to handle civil causes and matters relating to “aviation and the safety of aircraft.”¹ This exclusive jurisdiction also extends to criminal matters on the same subject.² Furthermore, aviation sits on the Exclusive Legislative List, meaning only the National Assembly has the power to legislate on it.³

The Federal High Court Act 1973 reinforces the above positions.⁴ Section 7(1)(L) of the Act grants the FHC exclusive original jurisdiction over matters connected with or pertaining to aviation, safety of aircraft, and carriage of passengers and goods by air and meteorology. The Act goes further, directing that this jurisdiction shall be construed to include the jurisdiction to hear and determine all issues relating to, arising from, or ancillary to such subject matter.⁵ The expansive interpretive instruction is significant because it encompasses not only what happens during the flight itself but also related disputes that may arise before or after the physical act of carriage.

The principal aviation law in Nigeria is the Civil Aviation Act (CAA) 2022, which repealed the Civil Aviation Act 2006 and now governs the sector. Section 55 of the CAA domesticates the Montreal Convention of 1999 as the applicable liability regime for

¹ SOSOLISO AIRLINES & ORS v. STARBURST AVIATION (UK) LTD & ORS (2022) LPELR-58743(CA) (Pp 56 - 57 Paras F - D).

² Section 251(3), Constitution of the Federal Republic of Nigeria 1999 (as amended)

³ *ibid*, Part 1, Second Schedule

⁴ As amended by the Federal High Court (Amendment) Decree No. 60 of 1991 [now Act]

⁵ *ibid* Section 7(3)

both international and domestic carriage by air in Nigeria, replacing the Warsaw Convention framework, which the Supreme Court upheld in **Joseph Ibidapo v. Lufthansa Airlines**,⁶ among other authorities. The Act also enables the application of other international conventions to which Nigeria is a party, including the 1948 Geneva Convention and the 2001 Cape Town Convention on International Interests in Mobile Equipment.⁷

2.2 How Nigerian Courts Have Applied This Jurisdiction

The Supreme Court has affirmed the FHC's jurisdiction across a wide range of aviation disputes. In **Cameroon Airlines v. Otutuizu**,⁸ the apex court confirmed the FHC's exclusive jurisdiction in a case involving a passenger who was rerouted to the wrong country, with personal effects worth \$20,000 seized.

At the Court of Appeal level, **Awawu Olulu Otoakhia v. Aero Contractor Nigeria Ltd**⁹ held that FHC's jurisdiction extends to all issues relating to, arising from, or ancillary to carriage by air.

Naturally, the FHC has also applied its jurisdiction to handle various aviation matters, including aircraft lease and repossession actions, ground handling issues, and even enforcement of international arbitral awards, as seen in **AIC Ltd v. Federal Airports Authority of Nigeria**,¹⁰ which reached the UK Supreme Court with an award exceeding \$48 million.

Detention of an Aircraft Pending the Determination of a Dispute

3.1 The Legal Basis in Nigeria

This point sits at the intersection of aviation law, admiralty law, and general civil procedure, and it most directly affects the effectiveness of litigation in an aircraft dispute. The Admiralty Jurisdiction Act 1991¹¹ (AJA), is the most direct source of authority in this regard. Section 1(a) of the AJA confers jurisdiction on the FHC to hear questions relating to proprietary interests in “a ship or aircraft” while section 5(3) provides that where there is a maritime lien or charge on “any ship, aircraft or other property” for an amount claimed, an action in rem may be brought.

The Act also confirms that references to aircraft claims include claims that can be made under applicable conventions.¹² All this goes to show that the Act expressly contemplates in rem proceedings against aircraft, just as courts can detain ships pending the determination of admiralty disputes.

The CAA 2022 introduces a parallel regulatory pathway that empowers the Nigerian Civil Aviation Authority (NCAA) to ground any aircraft and take necessary steps to ensure regulatory compliance.¹³ The Nigerian Civil Aviation Regulations allow detention of aircraft involved in violations that attract civil penalties,¹⁴ and the Cape Town Convention, given force of law through the CAA 2022,¹⁵ provides creditors and

⁶ (1997) 4 NWLR (Pt. 498) 124 P. 149, paras. A-B

⁷ Section 50(1) & (2), Civil Aviation Act 2022

⁸ (2011) 4 NWLR (Pt. 1238) 512 P. 537, paras. F-G

⁹ (2014) LPELR-23319 Pp. 27-29, paras. C-G

¹⁰ [2022] UKSC 16

¹¹ Cap A5, LFN 2004

¹² Section 4, Admiralty Jurisdiction Act 1991

¹³ Section 78(3), Civil Aviation Act 2022

¹⁴ Rule 1.3.3.4, Part 1 – General Policies, Procedures and Definitions, Nigeria Civil Aviation Regulations

¹⁵ Section 50(2), Civil Aviation Act 2022

lessors with remedies such as possession, control, deregistration, and export of an aircraft upon a debtor's default.¹⁶

However, the NCAA's regulatory detention powers under the CAA 2022 sit in tension with the constitutional framework. Section 251(1)(k) of the 1999 Constitution vests the FHC with exclusive jurisdiction over all civil causes and matters relating to aviation and aircraft safety. By virtue of Sections 1(1) and 1(3) of the Constitution, which establish constitutional supremacy, the Constitution's provisions prevail over any other law to the extent of any inconsistency. Consequently, where the CAA 2022 purports to confer detention powers on the NCAA as an executive regulatory agency, without requiring recourse to the courts, questions may arise as to whether such powers, if exercised in respect of disputes that are properly justiciable, would encroach on the FHC's constitutionally exclusive terrain. Regulatory detentions have, in practice, been carried out without judicial challenge, but a litigant minded to contesting the validity of an NCAA-ordered detention on constitutional grounds may have a credible argument under Sections 1(1) and 1(3).

Flowing from this, Nigerian courts have in many cases exercised detention and arrest powers over aircraft. In **Global Medical Care (UK) Ltd & Ors v. Medicaire (West Africa) Ltd & Anor**,¹⁷ the Federal High Court made an ex parte order arresting an air ambulance (Reg. No. N155AV) at the Domestic Wing of Murtala Mohammed Airport, Ikeja, expressed to subsist until the final determination of the suit. The aircraft, a US-registered Jetstar 73 used exclusively for the

overseas evacuation of seriously ill patients, was effectively grounded indefinitely on a Mareva-style asset-freezing application. The Court of Appeal vacated the order, holding that the Federal High Court had impermissibly converted a short-lived interim ex parte order into something with the character of an interlocutory order. On the balance of convenience, the court also found that the grounding of a medical evacuation aircraft — with the attendant risk to patients' lives, loss of revenue, and progressive deterioration of the asset — outweighed the respondents' interest in immobilizing it. So, the order was set aside and the aircraft released.

In **Mekwunye v. Emirates Airlines**,¹⁸ a case that was litigated all the way to the Supreme Court, confirmed the Appellant's victory at the High Court. The case concerned a breach of contract of carriage by air. What had transpired was that sometime in 2010, the Appellant, Plaintiff at the Federal High Court, had bought an air ticket with the Respondent 7 months prior to her trip, and on the day of the trip, she was denied boarding despite having confirmed her ticket 3 times.



¹⁶ Article 13(1)(b), Cape Town Convention on International Interests in Mobile Equipment 2001

¹⁷ (1997) LPELR-6296(CA) (pp. 8-9, paras. F-B)

¹⁸ *Mekwunye v. Emirates Airlines*, Federal High Court, Lagos, per Liman J, 2nd December 2019 (unreported)

Consequently, she was stranded for two days without explanation, apologies or alternative arrangements, and was forced to pay for a longer route on a more expensive ticket. At the trial court, she succeeded, and the court found that she was entitled to a full refund of the two air tickets she purchased, ₦250,000 in legal costs, and ₦2,500,000.00 as damages for breach of contract. The Respondent appealed to the Court of Appeal and had the judgment overturned in its favour; however, on further appeal to the Supreme Court by the Appellant, the trial court's judgment was reinstated.

In the aftermath of the Supreme Court's judgment, Justice Mohammed Liman of the Federal High Court granted an attachment order on an Emirates Boeing 777 (Reg. A6-EK, Type 77W) to enforce an N8.1 million (judgment sum with accumulated interest).¹⁹ The court ordered the aircraft to be “arrested and detained until the judgment debt is fully paid” and directed Emirates to bear the cost of custody, with an option to auction the aircraft in the event of default within 30 days.

As mentioned, the regulatory enforcement of court-ordered detention has also been demonstrated. In July 2024, following an FCT High Court attachment order in **Atlas Petroleum International Ltd v. Arik Air Ltd**, the NCAA and the Nigerian Airspace Management Agency (NAMA) grounded Arik Air's fleet to implement that court order, preventing its removal from the jurisdiction pending enforcement.²⁰ And in January 2026, the Federal High Court in Abuja in **Nigeria Customs Service v. Orlean Invest Africa Ltd**²¹ ordered the final seizure, condemnation, and forfeiture of a

Bombardier BD-700 Global 6000 to the Federal Government, on the basis that the aircraft had been imported in 2015 without payment of customs duties assessed at over N1 billion.

From the above cases, it is seen that the mechanisms employed to detain aircraft in Nigeria have, to date, primarily included asset-freezing injunctions, post-judgment enforcement attachments, and regulatory groundings. The AJA, however, provides a formal admiralty in rem warrant procedure for the arrest and detention of an aircraft, which shall be considered below.

3.2 Practical Approach to Obtaining an Order to Arrest and Detain an Aircraft in Nigeria

The procedure for obtaining pre-judgment detention of an aircraft in Nigeria is substantially in pari materia with ship arrest under the Admiralty Jurisdiction Procedure Rules (AJPR) 2023, with practical adaptations for aviation disputes. A practitioner approaching this application for the first time should treat the ship arrest procedure as the primary template, then account for the aviation-specific differences set out below.

The first threshold question is whether the claim falls within the admiralty jurisdiction of the FHC. The answer to this is provided in Section 5(3) of the AJA, which states that a claimant must establish a lien or other charge against the aircraft for an amount claimed. Once this is confirmed, the claimant files an originating process in rem — a writ or originating summons — in the FHC, identifying the aircraft by its registration mark, type, and known location.²²

¹⁹ Miss Promise Mekwunye v. Emirates Airlines (2019) LPELR-46553(SC)

²⁰ NCAA, “Clarification of the Status of Arik Air Following Court Order” August 12, 2024. <https://www.ncaa.gov.ng/media/news/clarification-of-the-status-of-arik-air-following-court-order/> Last accessed June 3, 2026

²¹ Nigeria Customs Service v. Orlean Invest Africa Ltd, Federal High Court Abuja, Suit No. FHC/ABJ/CS/1085/2025, per Omotosho J, 22nd January 2026.

²² Order 3 Rule 1, AJPR 2023

Then, the *ex parte* application follows. Under Order 7 Rule 1(1) of the AJPR 2023, the claimant must depose in a supporting affidavit that the aircraft is presently within Nigeria or is expected to arrive within three days.²³ This is a critical factual requirement. The affidavit must also set out the nature and value of the claim, disclose all material facts, and include an undertaking as to damages — a commitment to indemnify the aircraft owner against any loss if the arrest is later found to have been wrongly obtained.²⁴ The court is obliged to determine the application within 24 hours.²⁵

At this point, a significant practical difference from ship arrest will be the identity of the relevant authority on the ground. For aircraft, the Federal Airports Authority of Nigeria (FAAN) is the relevant authority. A copy of any arrest order must be served on FAAN — particularly the relevant airport management, which has practical control over the aircraft's departure slot, apron access, and airside clearance. In parallel, the NCAA should also be notified to flag the aircraft in its records, and the Nigerian Airspace Management Agency (NAMA) should be informed to withhold air traffic clearance for departure. This type of inter-agency coordination is what works in practice, as seen in the Arik Air enforcement in July 2024 earlier discussed, where both the NCAA and the NAMA grounded the attached fleet in response to a court order.

Once the aircraft is under arrest, the operator may seek its release by providing substitute security. Under Order 10 Rule 5(1) of the AJPR 2023, the court may accept a bank guarantee, insurance bond, bail bond, or

cash deposit of equivalent value to the claim, including accrued interest and costs.²⁶ This is a proportionate mechanism that keeps the claimant's security interest satisfied without the economic and humanitarian cost of keeping a revenue-generating asset permanently grounded.

It bears noting that the AJPR 2023 does not, on its face, limit the duration of a detention order to the period before an *inter partes* hearing. By virtue of Order 7 Rule 5, an aircraft placed under arrest remains so until it is either lawfully released or sold by order of court, meaning that an arrest order made *ex parte* can operate on a sustained, interlocutory basis pending the determination of the substantive suit. However, the difference between what applies in Nigeria and the practice in other jurisdictions lies in the mechanism by which the interlocutory basis is sustained.

For example, the Irish approach as illustrated in **Just-Us Air Srl v Air Moldova** reveals a structure where an *ex parte* arrest order is usually followed by a structured return of the parties before the court on notice to confirm or discharge the order. In that case, upon the return of the parties on notice, the arrest order was formally continued interlocutorily, with the plaintiff maintaining an undertaking as to damages pending settlement discussions between the parties. Then, following another on-notice return by the parties, the order was ultimately discharged on 26th February 2021 with a settlement being reached.²⁷

²³ Order 7 Rule 1(1)

²⁴ Order 7 Rule 8(3)

²⁵ Order 7 Rule 1(5)

²⁶ Order 10 Rule 5(1)

²⁷ O'Faolain A, "Air Moldova Plane Ordered to Stay in Dublin amid Dispute over €4.2m Award" The Irish Times (February 10, 2021) <https://www.irishtimes.com/business/transport-and-tourism/air-moldova-plane-ordered-to-stay-in-dublin-amid-dispute-over-4-2m-award-1.4481524> Last accessed June 3, 2026; Alan Dwyer, "Air Moldova Aircraft Leaves Dublin" (FlyingInIreland.com, March 4, 2021) <https://flyinginireland.com/2021/03/air-moldova-aircraft-leaves-dublin/> Last accessed June 10, 2026

The Nigerian framework, on the other hand, relies on a distinct procedural relationship between its rules. While the AJPR 2023 governs the immediate, specialized issuance of an arrest warrant, it does not operate in isolation from general civil procedure. Under Order 26 Rule 5(3) of the Federal High Court (Civil Procedure) Rules 2019, any party applying for an urgent ex parte order is required to concurrently file a Motion on Notice seeking the same reliefs on an interlocutory basis. This dual-filing framework ensures that an ex parte arrest remains strictly temporary and time-bound, lasting only until a designated date or the hearing of the inter partes application. Consequently, where the AJPR 2023 exhibits a lacuna regarding a structured on-notice return date, recourse is automatically made to the Federal High Court Rules to satisfy the established legal principle that ex parte orders must never be converted into permanent interlocutory freezes. This structural safety valve prevents the continued operation of an unsupervised arrest; instead, it mandates a court-supervised return, where the respondent can directly contest the arrest or offer alternative security, balancing claimant protection with the constitutional right to a fair hearing.

Also noteworthy is that few reported Nigerian appellate decisions have directly engaged the AJA's machinery in relation to an aircraft dispute. One such reported case that has done that is **Lignes Aériennes Congolaises (LAC) v. Air Atlantic Nigeria Ltd**,²⁸ decided by the Court of Appeal, Lagos Division, in 2005. In that case, Air Atlantic Nigeria Ltd (AAN) had leased a Boeing 737 cargo aircraft (Reg. 9Q-CNK) to Lignes Aériennes Congolaises (LAC), the national carrier of the Democratic Republic of Congo, under a lease agreement dated 30th April 1998. When LAC defaulted on payment of US\$169,794 in lease arrears, AAN commenced a suit in the Federal High Court, Lagos, and sought, among other reliefs, an order preventing the Boeing 737 from leaving the jurisdiction as security for the debt. LAC challenged the FHC's jurisdiction on the grounds that the lease designated Congolese law as the governing law and provided for arbitration in Kinshasa. The Court of Appeal dismissed the challenge, holding per Garba JCA that the lease agreement fell squarely within Section 1(1)(a) of the AJA as it concerned a proprietary interest in an aircraft, and affirmed the restraint-on-departure order as a legitimate exercise of the FHC's admiralty jurisdiction. The Court further held that the lease's ouster clauses were null and void under Section 20 of the AJA.



²⁸ (2005) LPELR-5808(CA) (Pp. 16-23 paras. C)

3.3 Pre-Judgment Detention in Foreign Aviation Jurisdictions

In the United Kingdom, the Civil Aviation Act of 1982 permits aerodrome authorities to detain an aircraft for unpaid charges, including any aircraft operated by a debtor, not just the specific aircraft to which their debt relates.²⁹ Where the operator disputes the charges and provides sufficient security, detention must cease,³⁰ but if the operator does not do so, and the charges are not paid within 56 days of the date when the detention begins, the authority may sell the aircraft with the leave of the court to satisfy the charges.³¹

Ireland, which is home to approximately 50% of the world's leased commercial aircraft fleet, has also developed one of the most sophisticated aviation creditor-protection regimes.³² Irish courts have granted ex parte orders to prevent an aircraft's departure pending the determination of a dispute, as observed in **Just-Us Air Srl v. Air Moldova**, decided before the Irish Commercial Court.³³ The court's reasoning in this matter was straightforward: the Air Moldova Airbus A319 could not be allowed to exit the jurisdiction before any inter partes hearing could be convened, and no alternative security was provided to adequately compensate the claimant/lessor. Ireland is also the first European Union member state to ratify the Cape Town Convention and adopt the Convention's Alternative A for insolvency proceedings, giving lessors

immediate rights of possession upon default, subject to a defined cure period.³⁴

India's experience, on the other hand, illustrates what happens when clear procedural rules are absent. During the Kingfisher Airlines collapse in 2012,³⁵ Lessors saw their aircraft grounded for months because the Directorate General of Civil Aviation (DGCA) refused to process deregistration applications, while parking charges, maintenance costs, and crew standby fees accumulated daily.³⁶ Eventually, the situation became a crisis, prompting India to amend its Civil Aviation Rule 30(7) to mandate deregistration within 5 working days of an Irrevocable Deregistration and Export Request Authorisation (IDERA) application.³⁷ In 2023, India also issued a government notification removing leased aircraft from the legal freeze that ordinarily prevented creditors from recovering assets during airline insolvency proceedings, closing a gap that had left lessors stranded during the collapse of Go First Airlines earlier that year.³⁸

The common thread across the UK, Irish, and Indian experiences is not merely that procedural gaps are costly but that courts and regulatory bodies handling aviation and admiralty disputes need to be flexible, practical, and efficient. Aircraft disputes move at the speed of flight: the asset can be abroad and beyond reach within hours of a hearing.

²⁹ Section 88(1)(a), Civil Aviation Act 1982

³⁰ *ibid* Section 88(2)

³¹ Section 88(1)(b); 88(3)

³² "Ireland as the Domicile of Choice for Aircraft Leasing – Cafico International" <https://caficointernational.com/article/ireland-as-the-domicile-of-choice-for-aircraft-leasing/> Last accessed June 10, 2026

³³ McAleer M, "Aircraft Prevented from Leaving Dublin Airport after Court Order" BreakingNews (February 10, 2021) <https://www.breakingnews.ie/ireland/aircraft-prevented-from-leaving-dublin-airport-after-court-order-1079003.html> Last accessed June 10, 2026

³⁴ "Ireland Set to Optimise Implementation of the Cape Town Convention by Adopting Alternative A" (Lexology, April 17, 2014) <https://www.lexology.com/library/detail.aspx?g=0a8bb580-15c8-4c7f-b931-52cbe37838d6> Last accessed June 11, 2026; Statutory Instrument no. 187 of 2017 (International Interests in Mobile Equipment (Cape Town Convention) (Aircraft Protocol) Order 2017)

³⁵ Wikipedia contributors, "Kingfisher Airlines" (Wikipedia, February 18, 2026) https://en.wikipedia.org/wiki/Kingfisher_Airlines Last accessed June 11, 2026

³⁶ Herman SB, "Aircraft Deregistration and Repossession in India: Lessons from Kingfisher and SpiceJet" The National Law Review (August 25, 2023) <https://natlawreview.com/article/aircraft-deregistration-and-repossession-india-lessons-kingfisher-and-spicejet> Last accessed June 11, 2026

³⁷ Rule 30(7) of the Aircraft Rules, 1937 (as amended in 2015)

³⁸ Patel D, Chitravanshi R and Kawale A, "Corporate Affairs Ministry Exempts Aviation from IBC's Moratorium Clause" *www.business-standard.com* (October 5, 2023) https://www.business-standard.com/economy/news/corporate-affairs-ministry-exempts-aviation-from-ibc-s-moratorium-clause-123100401176_1.html Last accessed June 11, 2026

Nigeria's existing framework under the AJA and AJPR provides the tools; what may be needed is for courts to deploy them with the speed and decisiveness that the nature of these assets demands.

3.4 The Tension Between Claimant Security and Commercial Harm

The argument for pre-judgment aircraft detention is not only clear but also legally coherent. An aircraft can exit the jurisdiction within hours, meaning that enforcement of judgment against a foreign-registered carrier with no other Nigerian assets can be rendered worthless overnight without the necessary security.

However, the counterargument is equally compelling. An aircraft earns revenue only when operational; a grounded aircraft accrues parking fees, maintenance obligations, insurance premiums, crew standby costs, and deferred airworthiness requirements, all without income. While the claimant's security is ensured and benefited from grounding the aircraft, the economic harm suffered by the operator extends beyond the operator to passengers on affected routes, connecting carriers, and cargo clients, making the consequence of detention frequently far broader and far more immediate than the value of the underlying claim.

The mechanisms other jurisdictions have developed, from release upon providing alternative security to cross-undertakings by the claimant as to damages, proportionality assessments, and expedited hearing timelines, exist precisely to deal with this tension. Nigerian procedural rules have

adopted the same approach to make a claimant provide an **undertaking as to damages** to compensate the aircraft operator for wrongful arrest; invite the operator to offer a bank guarantee or insurance bond in substitution for the aircraft's physical detention; and resolve the application on an expedited basis. However, when all these steps are deployed together, both the claimant's security and the public interest in keeping an aircraft operational can be most holistically served in an aircraft dispute.

Another question that arises is: what factors will a judge likely weigh in a pre-judgment aircraft detention application in Nigeria?

First is the **arguability of the claim**: is there a good arguable case that the claim falls within the FHC's admiralty jurisdiction under the AJA and that the claimant has a subsisting cause of action against the aircraft or its owner?

Second, **risk of dissipation**: is there a real and credible risk that the aircraft will exit the jurisdiction before judgment can be enforced — is the threat of evasion live and immediate, not merely speculative?

Third, **balance of convenience**: where does the greater risk of irreparable harm lie — in granting the detention and possibly stranding a revenue-generating asset, or in refusing it and possibly stranding the claimant's interests?

Fourth, **adequacy of undertaking and alternative security**: has the claimant provided a damages undertaking, and has the operator proposed substitute security of equivalent value?

Fifth, **proportionality**: is the value and character of the underlying claim proportionate to the economic and operational consequences of grounding the aircraft?

These are among the considerations that a pragmatic, security-conscious, and operationally sensitive court would be expected to weigh, particularly since these factors are already addressed by the AJA, AJPR 2023, and the developing body of aviation case law.



Proper Aviation Claims vs. Mere Aircraft-Related Situations

4.1 Legal Significance of the Distinction

Not every dispute that involves an aircraft is an aviation claim, and this distinction matters enormously. It determines whether the FHC has exclusive jurisdiction, whether certain liability caps and limitation periods apply, and what procedural rules govern the

proceedings. A litigant who brings an ordinary contract dispute to the FHC on the basis that it tangentially involves an aircraft may find their claim struck out for want of jurisdiction. On the other hand, a litigant who commences proceedings in a State High Court in what is actually a proper aviation matter would face the same fate.

The enforcement proceedings in the **Atlas Petroleum International Ltd v. Arik Air Ltd** illustrate this point directly.³⁹ The underlying claim in that matter was a commercial debt — a Lagos State High Court judgment for \$2.5 million unconnected to any act of carriage by air. Because the action was not an aviation matter, the FCT High Court (not the FHC) had jurisdiction to enforce it, and it did so by attaching Arik Air's aircraft as the judgment debtor's property under general civil procedure. That the aircraft happened to be an airline's asset did not make the dispute an aviation claim, nor did it automatically make the FHC the appropriate enforcement court. This is a practical reminder that it is the nature of the underlying cause of action — not the identity of the asset caught by enforcement — that determines which court has jurisdiction.

Nigerian courts have developed a meaningful body of case law on the distinction between proper aviation claims and mere aircraft-related disputes, with the Supreme Court anchoring this distinction. The most comprehensive judicial enumeration of what constitutes an aviation claim was set out by the Supreme Court in **Harka Air Services (Nig.) Ltd v. Keazor**.⁴⁰ In a claim arising from a crash-landing on a domestic Kaduna-Lagos flight, the Court enumerated the categories of

³⁹ Okeke-Korieocha I, "Arik Air's Fleet Grounded over Controversial \$2.5m Debt - Businessday NG" (Businessday NG, July 31, 2024) <https://businessday.ng/big-read/article/arik-air-fleet-grounded-over-controversial-2-5m-debt/> Last accessed June 11, 2026

⁴⁰ (2011) 13 NWLR (Pt. 1264) 320 (P. 343, paras. F-G)

aviation liability that fall within FHC's jurisdiction:

- a. injury sustained on board an aircraft;
- b. death occurring in the course of a journey;
- c. damage to or loss of baggage or cargo;
- d. delayed or denied boarding; and
- e. incidents occurring in the course of flight preparation or operation.

The above definitions, consistently endorsed in subsequent Supreme Court decisions, provide the clearest domestic definition of an aviation claim.

The Court of Appeal in **KLM Royal Dutch Airlines v. Taher** adds a second layer to this framework: the question of what sparks FHC jurisdiction in an aviation matter is determined by whether “there must have been a carriage of the passenger or the goods by the airline.”⁴¹ In other words, a matter only qualifies as an aviation claim determinable under the FHC's exclusive jurisdiction where the passenger was on board, or in direct connection with the act of carriage. The Harka enumeration and the KLM test converge on the same principle: the claim must have a live and immediate nexus with the operation of an aircraft.

4.2 Applying the Frameworks Across Dispute Categories

Across different kinds of situations, applying the formulations set by the Supreme Court and Court of Appeal will help a judge, lawyer, or even a claimant easily determine whether a matter is an aviation claim *stricto sensu* or merely another aircraft-related challenge.

For example, passenger injury and cargo claims are easy examples of aviation claims that sit at the heart of the **Harka** enumeration. Where a passenger suffers injury on board, or cargo is damaged in transit, the Montreal Convention applies, the FHC has exclusive jurisdiction to determine the matter, and the carrier's liability is subject to both the Convention's limits and the two-year limitation period.⁴²

Contractual disputes, however, present greater complexity. The Nigerian courts have developed a specific doctrine for this category in the aviation context, one that turns on whether actual carriage by air has taken place. In **KLM Royal Dutch Airlines v. Taher**,⁴³ the Court of Appeal held that for a dispute to constitute an “aviation matter” activating the FHC's exclusive jurisdiction under Section 251(1)(k) of the Constitution, there must be a direct and immediate contact with an aircraft — specifically, the passenger must have been carried inside the aircraft. The respondent in that case had been denied boarding at the check-in counter and never boarded the aircraft; the Court held the dispute was one of simple contract, and that the State High Court had jurisdiction, not the FHC. The practical implication is significant: a billing dispute under a Maintenance,

⁴¹ (2014) 3 NWLR (Pt. 1393) 137 Pp. 193, paras. E-H

⁴² Article 35, Montreal Convention for the Unification of Certain Rules for International Carriage by Air

⁴³ (2014) 3 NWLR (Pt. 1393) 137 Pp. 193, paras. E-H

Repair, and Overhaul (MRO) agreement, a claim for arrears of rent under a dry lease, a refund claim for an unused ticket, or any other commercial claim that merely touches aviation without involving actual carriage, may fall outside the FHC's exclusive aviation jurisdiction.

Property damage caused by aircraft is an aviation claim because the aircraft, in such a case, being the instrument of the harm, satisfies the “direct and immediate contact” test squarely. The FHC has domestic jurisdiction over such claims.⁴⁴

Cargo claims arising after off-loading from the aircraft occupy a nuanced position under the AJA. Section 1(1)(g) of the AJA expressly extends the FHC's admiralty jurisdiction to claims for “loss or damage to goods occurring between the off-loading of goods across space from a ship or an aircraft and their delivery at the consignee's premises, or during storage or transportation before delivery.” The provision's express reference to aircraft means that, on its face, a claim for damage to goods between off-loading from the aircraft and delivery to the consignee remains within FHC admiralty jurisdiction provided the claim arises under the same air carriage contract. A purely separate, independent inland transport arrangement entered after the air carriage concludes falls outside admiralty jurisdiction entirely.

Air traffic control and regulatory failures are inherently aviation claims that fall squarely within FHC jurisdiction.⁴⁵

Customs and regulatory enforcement actions involving aircraft form a distinct category, illustrated by **Nigeria Customs Service v. Orlean Invest Africa Ltd.**⁴⁶ In this case, the FHC exercised jurisdiction over the seizure and forfeiture of an aircraft for customs duty default — a matter grounded not in carriage by air but in a statutory regulatory violation under the Nigeria Customs Service Act 2023, confirming that the FHC's jurisdiction over aircraft is not confined to the operational aviation context: where the statutory basis for the court's intervention is a Federal enactment, the FHC's exclusive jurisdiction extends to regulatory aircraft disputes of this kind.



⁴⁴ In the absence of an applicable international framework, claimants here will rely on domestic tort law and the third-party liability insurance regime established under Section 104 of the Civil Aviation Act 2022 and Part 18 of the Nigerian Civil Aviation Regulations 2023.

⁴⁵ Section 251(1)(k), 1999 Constitution of the Federal Republic of Nigeria (as amended)

⁴⁶ Musa D, “Court Orders Forfeiture of Private Aircraft over Customs Duty Violation” (Punch Newspapers, January 27, 2026) <https://punchng.com/court-orders-forfeiture-of-private-aircraft-over-customs-duty-violation/> Last accessed June 14, 2026

Conclusion

Nigeria's framework for handling aviation disputes has matured considerably, and the pace of that development has accelerated in recent years. The constitutional and statutory basis for the FHC's exclusive jurisdiction is, on the whole, well-settled. The position of creditors, lessors, and financiers has been strengthened by the Cape Town Convention and the FHC's 2024 Practice Directions on its implementation. Nigerian courts have also developed a body of case law spanning the spectrum of aviation disputes — from passenger injury and cargo claims to enforcement and regulatory proceedings.

The key doctrinal landmarks that define the architecture of this framework are, on balance, reasonably well-settled. The Court of Appeal's decision in **Lignes Aériennes Congolaises v. Air Atlantic Nigeria Ltd** represents a meaningful step forward in confirming that the AJA's machinery extends to aircraft, and that restraint-on-departure orders against aircraft can be a legitimate exercise of the FHC's admiralty jurisdiction.

However, questions remain as to the precise conditions under which a formal pre-judgment admiralty in rem arrest warrant would be granted against an aircraft under the AJA, and how the AJPR 2023 would be applied specifically to aircraft arrest — matters that have yet to be authoritatively settled by a superior court. The courts have ordered aircraft arrested and detained in various forms — Mareva-style freezing injunctions, post-judgment enforcement attachments, regulatory groundings in aid of court orders, and customs forfeiture — but the formal admiralty in rem procedure under the AJA remains, in the main, at the frontier of Nigerian aviation jurisprudence.

The statutory framework exists, and the case law — though still developing — provides workable coordinates for practitioners navigating aviation disputes in Nigeria. As these disputes continue to grow in complexity and frequency, the doctrinal architecture examined in this article should serve as a useful guide, while remaining open to further refinement by the courts.

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