

# Kluwer Arbitration Blog

## 2024 in Review: Africa—Shifting Seats, Key Developments, and Other Trends in Africa

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2024 marked a period of several significant developments and witnessed some “firsts” for the African arbitration community. Notwithstanding the constantly changing political climate and policies in different countries across the continent, the continued growth of arbitration in Africa remains relentless with exciting events and collaborations as well as judicial, legislative and institutional developments. These events and developments undoubtedly, continue to highlight the [rise of African Arbitration](#) and the growing prominence of African seats.

This post first examines the gender balance and emerging arbitration hubs in Africa (Section 1). Next, it highlights legislative and institutional developments (Section 2) before providing updates on the development regarding the African Continental Free Trade Area Agreement (Section 3). This post also features interesting investment cases involving the continent (Section 4) and finally, an update on African events and collaborations in 2024 (Section 5).

### 1. Gender Balance and Emerging Arbitration Hubs

The 2024 edition of the biennial [SOAS Arbitration in Africa Survey](#) (“Survey”), like the previous editions in 2018, 2020, and 2022, provides empirical insight into the growth and particularities of arbitration in Africa. In comparison to the 2020 Survey, the 2024 Survey showcases the continent’s growing diversity and appeal, revealing a wider range of top arbitration seats: Mauritius, Seychelles, Morocco, Kenya, Nigeria, Malawi, Ivory Coast, Sudan, Botswana, Zambia, Algeria, Uganda, Tanzania, South Africa, Rwanda, and Egypt. The difference in data likely derives from this edition’s methodology, which involves non-nationals with experience in Africa-connected arbitrations and their perception of these seats. Judicial support for arbitration, the reputation of resident arbitration institutions, and sophisticated arbitration legal frameworks are cited as reasons for the continued preference for arbitration seats in places such as Mauritius, South Africa, Egypt, and Rwanda’s emergence as a player. Giving attention to the global demand for the inclusion and appointment of women in arbitration, the 2024 Survey attempts to close the gap on information relating to female arbitrators in Africa-connected arbitrations. It observes progress in gender diversity within specific age groups in Africa-related arbitrations with evidence indicating greater efforts being made by arbitration institutions compared to parties or co-arbitrators. With the growing demand and popularity of tribunal secretaries, the Survey also attempts to provide data on

the use of tribunal secretaries and how it may support the transition into the role of arbitrator. Although, it uses a small data set, the Survey concludes that being a tribunal secretary does not always lead to arbitrator appointments as may be expected by aspiring practitioners and emphasises the need for broader opportunities in this pathway.

## 2. Legislative and Institutional Developments

In February 2024, the President of the Republic of Malawi gave assent to the [International Arbitration Bill](#) previously passed by the Malawi Parliament in 2023. The Bill (now the [International Arbitration Act 2024](#)) adopts the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration 2006 and gives effect to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”). This development closely follows Malawi’s accession to the New York Convention in 2021 and aligns with the country’s demonstrated intention to [ensure the establishment of a seat for international commercial arbitration in Malawi](#). The Malawi Supreme Court has further indicated its support for this project through a [recent decision](#) refusing to grant an anti-arbitration injunction.

There are also plans to reform the arbitration-governance framework in [Ghana](#). This is premised on the potential high risks Ghana faces from substantial arbitration claims against it. This reform is to be achieved by amending the [State \(Property and Contracts\) Act 1960](#) to assign the default location for contracts involving the Ghanaian government, and for such arbitration matters to be heard at the Ghana Alternative Dispute Resolution Centre.

Just before the close of the year, Uganda passed into law the [Arbitration and Conciliation \(Amendment\) Act 2024](#). A major change by the Amendment Act is the integration of the Centre for Arbitration and Dispute Resolution (CADER) into the Ministry of Justice. This aims to eliminate redundancy, reduce government expenditure and enhance accountability in alignment with the Government Policy for Rationalisation of Government Agencies and Public Expenditure (RAPEX), adopted by the Uganda Cabinet in 2021.

Arbitration institutions were not left out in the 2024 series of developments. Notably, the Cairo Regional Centre for International Commercial Arbitration (CRCICA) issued the [2024 Arbitration Rules](#). The 2024 Rules maintain the flexibility of its source, the UNCITRAL Arbitration Rules, but also include a number of key amendments which have been discussed in a [previous post](#) with further details provided by CRCICA in a [comprehensive comparison](#) between the current Rules and the 2011 Rules.

The Africa Arbitration Academy embarked on a mission to develop a comprehensive resource for individuals and organizations involved in arbitration across the African continent. This resource is known as the [Arbitration Compass](#), which launched in July 2024. The Arbitration Compass serves as an in-depth guide, covering arbitration practices in 19 African countries and 8 arbitral institutions, with contributions from over 50 experts. It is designed for arbitration practitioners, lawyers, business owners, investors, academics, and researchers, and offers valuable insights into the diverse and evolving arbitration landscape across Africa’s dynamic jurisdictions.

### 3. The 2024 Adoption of the AfCFTA Digital Trade Protocol: Implications for Arbitration

In February 2024, a significant development regarding the African Continental Free Trade Area (AfCFTA) with the adoption of the [Digital Trade Protocol](#) (AfCFTA DTP) by the State Parties. While the AfCFTA DTP has been adopted, negotiations on its eight annexes, covering crucial areas such as cross-border data transfer, digital payments, and online safety, are ongoing.

The AfCFTA DTP, once ratified, will have a profound impact on the digital economy across the African continent. Notably, the Protocol will enter into force upon completion of the ratification process, with State Parties then having a five-year window to align their national laws with its provisions.

This development has several potential implications for arbitration in Africa:

- **Increased Cross-Border Disputes:** The AfCFTA DTP is likely to facilitate increased trade and investment across African borders. This may lead to a rise in cross-border commercial disputes, including those arising from digital trade transactions.
- **New Areas of Arbitration:** The Protocol's provisions on issues like cross-border data flows, digital payments, and online safety will likely give rise to new areas of arbitration practice. For example, disputes may arise regarding the interpretation and application of rules on data localization, cross-border data transfers, and the use of digital signatures.
- **The Role of Arbitration in AfCFTA Dispute Resolution:** The AfCFTA DTP provides for the resolution of disputes between State Parties through the Protocol on Rules and Procedures on the Settlement of Disputes, which consists of Alternative Dispute Resolution mechanisms and arbitration for resolving disputes. While this Protocol primarily addresses disputes between States, it may also have implications for the resolution of private commercial disputes arising from the implementation of the AfCFTA DTP.

The adoption of the AfCFTA DTP marks a significant milestone in the development of African regional trade law. As negotiations on the annexes continue and the Protocol enters into force, it is likely to have a profound impact on the practice of arbitration in Africa in the near future.

### 4. Significant Arbitration Cases

#### a. The Mambilla Arbitration

2024 saw a significant development in the [long-running dispute](#) surrounding the Mambilla Hydroelectric Power Project in Nigeria. Sunrise Power and Transmission, a company previously awarded the construction contract for the project, escalated its legal action against the Nigerian government by bringing an arbitration under the auspices of the International Chamber of Commerce, International Court of Arbitration in Paris. This move followed the government's cancellation of the original contract in favour of a Chinese consortium in 2007.

Sunrise Power, seeking damages of USD 2.3 billion, claimed the government breached its 2003 agreement. Significantly, in 2020, the parties entered into a settlement accord where the government agreed to pay Sunrise Power USD 200 million. However, Sunrise Power asserts that

the government failed to adhere to this settlement agreement, prompting the current ICC arbitration proceedings.

In a significant development in January 2025, former Presidents Obasanjo and Buhari, along with a former Minister of Power, testified in Paris regarding the project. Their testimony shed light on the political and economic context surrounding the project's development and cancellation, providing valuable insights for the arbitration tribunal.

The Mambilla arbitration has garnered considerable attention as it highlights the complexities of large-scale infrastructure projects in Africa, involving foreign investors, government contracts, and potential for international disputes. The outcome of this case will have significant implications not only for the Mambilla project but also for future infrastructure development initiatives across the continent.

### **b. Kenya Court Maintains Pro-Arbitration Stance**

A recent Kenyan case underscores the strong pro-arbitration stance of Kenyan courts. The court upheld an arbitration agreement under the ICC Rules, rejecting the appellant's arguments that the agreement was biased and the ICC process was expensive and slow. The decision reinforces the enforceability of arbitration agreements in Kenya, even in the face of challenges.

### **c. Ugandan Court Enforces LCIA Award in Solar Plant Dispute**

The Ugandan High Court has upheld a London Court of International Arbitration (LCIA) award in favour of Great Lakes Energy (GLE) over the Kabulasoke Solar Power Plant dispute. GLE was granted USD 1.18 million in damages after its partners breached agreements, misappropriated funds, and revoked GLE's promised 60% shareholding. Despite resistance, the court allowed the enforcement of the award in Uganda. The case highlights Uganda's support for arbitration and renewable energy investments.

## **5. African Arbitration Events and Collaborations**

2024 witnessed diverse remarkable Africa-focused events and conferences which facilitated discourse on varying arbitration topics and provided networking opportunities for arbitration practitioners. The LCIA West Africa Roadshow 2024 which took place partly in Accra, Ghana and in Lagos, Nigeria involved a series of discussions including third-party funding, challenges in enforcing arbitration awards, opportunities for collaborations with African arbitration institutions, the role of arbitration in Africa's energy transition, and key provisions of Nigerian Arbitration and Mediation Act 2023, previously discussed on the blog, [here](#) and [here](#).

The Arbitration Foundation of Southern Africa (AFSA) also launched the inaugural Johannesburg Arbitration Week (JAW) in April 2024. The inaugural JAW [inaugural JAW](#), co-hosted by AFSA and AFSA's founding members, underscores South Africa's rising prominence in the global arbitration arena while spotlighting members of the Southern African Development Community

(SADC) region as key players in the international arbitration space. A pivotal moment at the JAW was the session focused on the alliance between the AFSA and the SADC on regional arbitration (the “Alliance”). The Alliance is an agreement between the AFSA and 10 of the SADC members (Angola, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Tanzania, Zambia, and Zimbabwe). It aims to harmonise and standardise the practice of arbitration among the Alliance members. The AFSA-SADC Alliance is expected to positively reshape and enhance arbitration practices in the SADC member states and foster cooperation among the Alliance members.

The 8th edition of the ICC Africa Conference, was, for the first time, hosted in East Africa by Nairobi, Kenya. This edition drew attendees from 28 countries within and outside Africa and reflects Kenya’s steady emerging as a growing hub for arbitration, as it has been confirmed that it will also host the [9th edition of the Conference in 2025](#). This, alongside other significant developments in recent years and judicial support for arbitration is expected to continue to enhance Kenya’s reputation as one of the preferred seats for international arbitration within Africa. Another noteworthy ICC-related event was the first edition of ICC Nigeria’s Arbitration Days which was hosted in Lagos, Nigeria in collaboration with the Nigerian Bar Association. The theme was “Harnessing the Prospects of Arbitration and ADR in Emerging Hubs.” The two-day conference featured [engaging discussions](#) spanning various business sectors including international trade, maritime, and investment.

## Conclusion

Arbitration in Africa continues to grow at a fast pace. 2024 has been marked with numerous significant developments, highlighting the increasing prominence of African seats, the growing support for arbitration by African courts, and the emergence of new initiatives aimed at strengthening the arbitration ecosystem.

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