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Enforcing Regional Justice: An Examination of the Legal and Institutional Barriers to ECOWAS Court Judgment Compliance in Nigeria

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Abstract

Since 2005, the ECOWAS Community Court of Justice has gained jurisdiction over human rights cases, making itself one of the most accessible regional human rights courts in Africa. Nigeria, as the host state of the court and the leading member of the ECOWAS, is not consistent in enforcing the judgments of the court. The study looks at the challenges of implementing ECOWAS Court decisions in Nigeria in a legal and institutional sense. It engages a qualitative documentary approach in analysing the ECOWAS Revised Treaty, the Protocols of the Court, the relevant Nigerian constitutional provisions, selected ECOWAS Court Cases delivered against Nigeria (2010-2025), and related literature. The results point to four interconnected challenges: the need to domesticate treaties in Nigeria's constitution, the Court's tendency to rely on national institutions to enforce treaties, institutional fragmentation and delays in implementation, and selective enforcement by the executive based on politics. The study concludes that these barriers compound more and suggests the enactment of an ECOWAS Court Judgments (Enforcement) Act, the creation of a special body to enforce the ECOWAS Court judgments responsible to the National Assembly and increased judicial responsiveness to the jurisprudence of the ECOWAS Court.

Keywords: ECOWAS, court of justice, judgment enforcement, compliance, defiance, treaty domestication, regional justice.

Introduction

The Economic Community of West African States (ECOWAS) was created by the 1975 Treaty of Lagos to serve the goal of promoting economic integration amongst the West African States, which was later expanded by the Revised Treaty of 1993 to include the areas of peace, security, democratic governance, and human rights. The Community Court of Justice, established by the Protocol (A/P.1/7/91) of 1991 to clarify and apply the community's legal instruments, was only able to deal with interstate and institutional disputes. It underwent a significant transformation in its character with the adoption of the Supplementary Protocol A/SP.1/01/05 in January 2005,

which gives the Court jurisdiction to consider human rights complaints directly from individuals and non-governmental organisations, without the prior need for the exhaustion of domestic remedies to be observed (Alter et al., 2013; Adeyeye, 2024b). The result of this reform was to make the Court a much more active inter-governmental body than it had been and to make it one of the most accessible international human rights adjudicators on the planet, as Alter et al. (2013) put it, when compared with other international judicial bodies like the European Court of Justice and the African Commission. Adeyeye (2024b) maintains that the non-exhaustion rule, over a decade later, remains one of the most distinctive features of the Court when contrasted with other international courts and tribunals, including the European Court of Justice and the African Commission.

The Nigerian state stands alone in one of the architectures. It has the seat of the Court in Abuja, accounts for a big proportion of the budgets of ECOWAS and has figured prominently in a

voluminous and swelling caseload of human rights litigation. Litigants have recently sought answers from the Court regarding the failure to provide enough funds for basic education, restrictions on online expression under the Cybercrime Act, the inordinate use of force by the police against #EndSARS protesters at the Lekki Toll Gate in October 2020, and most recently, the compatibility of the states' blasphemy law with the right to freedom of expression (Vanguard, 2025). In each of these areas, the Court ruled against Nigeria, ordering remedial measures, but in each, the record indicates that the measures were not implemented promptly and fully, but rather delayed, partial or contested. It is noteworthy that this pattern is apparent in many of the subject areas, education funding, protesting police, speech restrictions, etc., as it indicates that the issue isn't the nature of any specific dispute but rather the enforcement system shared by all of them.

There are no simple explanations for this divide, other than a lack of political will. They are interwoven in the legal framework of the ECOWAS Court itself, which was developed to work with, not against, national institutions, and in the detailed constitutional and bureaucratic framework of the Nigerian state. Article 15(4) of the Revised ECOWAS Treaty and Article 19(2) of the 1991 Protocol provide for the enforcement of the Court's decisions in principle, without any independent power to enforce them, as their enforcement depends upon the issuance of a writ of Execution to a national authority appointed by each member state of the ECOWAS (Open Society Justice Initiative, n.d.; Enebeli, 2024). The designation of an authority does not resolve the underlying constitutional issue of how an international judgment interacts with a dualist legal order in Nigeria, under section 12(1) of the 1999 Constitution (as amended), where no treaty is part of the law unless it is enacted by the National Assembly (SERAP, 2022).

This nexus of treaty design and internal constitutional framework – not the overall issue of compliance and defiance – is the focus of this article. In this article, the author chooses to focus the analysis on the third dimension of the study on ECOWAS Court's enforcement in Nigeria, which examines the legal and institutional barriers, as it is a separate and analytically self-contained study of the enforcement problem, whereby the government's compliance with the Court's rulings or its failure to do so, and public awareness of the existence of the Court and its functions has been studied separately.

Statement of the Research Problem

While Nigeria has avouched for the jurisdiction of the ECOWAS Court and has always made public assertions on its commitment to regional integration of the law, a significant number of the decisions of the court rendered against it have not been acted upon or acted upon late or in part. Civil society monitoring has documented dozens of such excellent judgments, while investigative

journalism reveals that as at December 2024, Nigeria has the highest number of unenforced judgments in the ECOWAS region, and that the outgoing President of the Court, Justice Edward Asante, disclosed in 2023 that some seventy per cent of the Court's rulings across the region were not being enforced (Punch, 2024). This was confirmed, not contradicted, by a 2026 Legal scholar and civil society group that reported that at least forty-four ECOWAS Court decisions against Nigeria specifically had not been implemented, citing the failure to implement rulings favouring a tortured journalist and #endSARS protesters as examples. This researcher considers this number to be substantially the same as the investigative journalism count, and thus, non-enforcement is not a disputed number but a fact that needs to be explained but doesn't need further quantification.

To date, current research on the ECOWAS Court has focused on the legitimacy and jurisprudence of its human rights agenda (Ebobrah, 2010; Alter et al., 2013; Adeyeye, 2024a, 2024b) instead of the legal and administrative procedures through which its decisions become operational in Nigeria. Even Enebeli's (2024) recent comparative study looking to lessons from the European Court of Justice for strengthening ECOWAS enforcement fails to explore the interaction between Nigeria's own constitutional order and ECOWAS' institutional design for enforcement, limiting enforcement to primarily a regional problem of institutional design and not a distinctly Nigerian legal one. This leaves a space: the literature tells us why the Court is prepared to rule against Nigeria and, in growing numbers, how ECOWAS as an institution can reform itself, but much of it is silent on the detailed legal and institutional processes (and barriers) that must be navigated within the Nigerian state before those rulings can be implemented in practice. This article does not attempt to answer the question of compliance in the round but rather asks a narrower question: What are the specific legal and institutional obstacles that hinder the implementation of ECOWAS court decisions in Nigeria, and how do these obstacles interrelate to yield the entrenched trend of delayed or partial implementation seen across cases decided between 2010 and 2025?

This question is important for three groups of people. For the Nigerian state, it spells out what hinders their ability to reform the region and what they need to do to adjust the region to become a better state. It demonstrates to ECOWAS as an institution the practical constraints of a treaty enforcement model based on the goodwill of the same actors who are targeted by judgments issued against them with frequency, a constraint that the ECOWAS current leadership seems to have accepted, as the Court has recently turned to directing appeals to civil society to fill the enforcement gap (AllAfrica, 2026). It is a document that provides a factual record based upon the actual provisions in the protocol and a clear set of cases adjudicated, explaining how the enforcement gap is built rather than simply stating it is.

Review of Related Literature and Theoretical Framework

The ECOWAS Court of Justice: Mandate and Enforcement Design

The design of the ECOWAS Court of Justice in terms of mandate and enforcement. The mandate and enforcement design of the ECOWAS Court of Justice. The Community Court of Justice was created in accordance with Articles 6 and 15 of the Revised ECOWAS Treaty (1993) and Protocol (A/P.1/7/91) of 1991. Article 15(4) of the Revised Treaty says that the Court's decision is binding on member states, community institutions, and natural and legal persons, while Article 19(2) of the 1991 Protocol says that the Court's decisions are final and immediate. Thus, in theory, the Court's rulings have an absolute mandate to follow. This binding jurisdiction was extended by the 1995 Supplementary Protocol (A/SP.1/01/05) to human rights cases where individuals directly sue a state party and became a key turning point in the Court's evolution into an active human rights adjudicator, as Alter et al. (2013) describe, with its first landmark rulings against Niger for

tolerating slavery and against Nigeria over financing basic education. Adeyeye (2024b) puts this same reform in a comparative perspective, explaining that the Court is more directly available to individual litigants to offer relief than either the European Court of Justice or the African Commission on Human and Peoples' Rights. The advantage this researcher attributes to this Court is genuine but limited; a swift path to relief is not very valuable to a litigant if the relief obtained is subsequently found to be unenforceable.

It is, however, an indirect enforcement structure that is attached to this binding jurisdiction. Article 24 of the Protocol, as amended in 2005, stipulates that the execution is to be effected in the form of a Writ of Execution which is to be sent by the Chief Registrar of the Court to the respondent State, and that the latter is to designate a National authority to implement the judgment (Open Society Justice Initiative, n.d.). Article 22(3) of the Protocol, Article 5(2) of the Revised Treaty also state that member states have to take "all measures necessary" to enact the legislative texts needed to enable them to execute the Court's decisions pursuant to their own constitutional procedures. It is the Court that adjudicates, and the state that executes, there is no equivalent to the ECOWAS marshal, bailiff or asset-seizure mechanism for the domestic court. As a diagnosis of the comparative success of the European Court of Justice at ensuring compliance, this researcher finds Enebeli's (2024) comparison convincing; however, as discussed in Section 4 below, the task of implementing a comparable mechanism at ECOWAS is fraught with political difficulties that a strictly institutional comparison with the EU has tended to overlook. Nigeria's answer to this design has been to have the Competent National Authority (CNA), namely the Office of the Attorney-General of the Federation and Minister of Justice, designated as the competent national authority in 2014 (SERAP, 2022), thereby answering the question of who within government is formally responsible for enforcement but not the more consequential question of what legal force a Writ of Execution holds once it reaches that office within Nigeria's domestic hierarchy of laws.

Nigeria's Dualist Constitutional Order and Treaty Enforcement

That latter question is regulated by section 12(1) of the 1999 Constitution (as amended) that states that no treaty with any other country shall have effect with the exception of where it has been incorporated into the law of the land by the National Assembly. Nigeria's Supreme Court directly embraced this dualist approach in the case of Abacha v. Fawehinmi (2000), which held that the African Charter on Human and Peoples' Rights, having been domesticated by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1983, had the force of ordinary Nigerian law and was as such subject of enforcement by Nigerian courts, though the court emphasised that the Constitution remained supreme to any domesticated treaty. Two points are made at once in the decision: Nigerian courts accept a domesticated regional instrument and prove to be willing to enforce it even against the government and that is only if the instrument itself was first domesticated by a separate act of legislation. Although the Revised Treaty and the 2005 Protocol establishing the Court's jurisdiction in human rights have been ratified by Nigeria, commentary on the 2025 blasphemy-law decision against Kano State notes that it remains an open constitutional question whether Nigeria's domestic legal order can give effect to the Court's human rights decisions (Vanguard, 2025). The observation by the researcher is that the gap has not been closed over the last 25 years, from Abacha v. Fawehinmi (2000) to the Kano ruling (2025), this is in itself a statement that the gap is not a failure that needs to be addressed by a simple legislative amendment, but instead, it is a structural fault that successive Nigerian governments have had little reason to remedy.

Theoretical Framework

This study employs the complementary theory and the legalization model by Kenneth W. Abbott

and Duncan Snidal (2000). The starting point of its thesis is the view that international legal arrangements can be analysed on three independent dimensions: obligation (how binding is a rule for States); precision (how clearly the rule is specified); delegation (how far a court or other third party is given the authority to interpret and apply the rule); and that the medium path between soft law and hard law is not a binary dimension, but a continuum. In this capacity, the framework sheds light on a paradox: the Court's decisions are "hard law", that is, formally binding and precise, and the delegation of interpretive powers to the Court is relatively "soft" because it does not reach beyond the stage of adjudication, and thus does not reach the stage of execution, which remains at the discretion of the same country that the judgment was issued against. The strength of this framework is its ability to demonstrate that the legal instrument can be hard or soft, depending on the function; and that, in fact, this is the nature of the ECOWAS enforcement regime as documented in Section 2.1. This researcher would argue that the framework is at its core descriptive and typological: while the framework accurately describes the nature of the design of the ECOWAS Court, it does not by itself predict which states will exploit the soft-enforcement dimension most readily, or explain why, given the characteristics of state domestic politics discussed in Section 4.4, some states may not so exploit it.

These two frameworks predict exactly the pattern that this article examines: rejection of the authority of the Court is not an actual occurrence, but rather a persistent, structurally produced gap between the bindingness of the judgment and the willingness to execute it, or the capacity to do so, that is further defined by the perceived legitimacy of the rule-making process, which Thomas M. Franck (1988) suggests affects how readily domestic institutions treat compliance as an obligation and not a discretionary courtesy. This researcher's position, which was expanded in Section 4.5, is that both the managerial model and the legalization framework are needed, but not mutually sufficient: the managerial model best explains the delays that occur regularly in non-political situations in Nigeria, and the legalization framework best explains why the routine delay never progresses to a penalty at the ECOWAS level, as seen here, but neither the managerial model nor the legalization model alone are sufficient to explain the selective acceleration of compliance that this study finds in lower cost-penalty situations.

Empirical Review

All empirical literature on the ECOWAS Court's human rights jurisdiction agree that enforcement is the Court's main lacuna, not jurisdiction or standing. Significant, yet, is the fact that, over a decade later, Adeyeye's (2024a, 2024b) recent doctrinal analysis on the same access rules in the Court is similarly characterized in terms of the unfulfilled promise of those access rules, indicating that the Court's enforcement capacity has not improved significantly over the last decade. In a series of over thirty interviews with judges, lawyers and government officials, Alter et al. (2013) also report on the Court's increased inclination to rule against strong states, such as Nigeria, and emphasize that the likelihood of implementing the resulting decisions “will depend on domestic follow-through, which the treaty framework doesn't impose.” There is a compatible finding by Enebeli (2024) in his comparative study which posits that the ECOWAS Court, lacking a compliance incentive, financial penalty, structured dialogue and direct domestic incorporation as is experienced in Europe, relies on the voluntary cooperation of member states to an extent that is unsustainable in the long run.

On the Nigerian side, the pattern these studies predict is evident in the documented life-cycle of certain cases, including the SERAP educating on the right to free basic education (SERAP v. Federal Republic of Nigeria & Universal Basic Education Commission, 2010) which resulted in a judgment and declaration that every Nigerian child has an enforceable right to free basic education,

but civil society monitoring continued for years, pushing for the government to enact a bill of the same name back into the National Assembly; the Cybercrime Act ruling, which required the government to repeal a specific offence, was followed by years of civil society monitoring, during which the government did not even engage in the proceedings, and as of the time of this writing, has not taken a bill for a repeal of the offence to the National Assembly; and the #EndSARS judgment of July 2024 was preceded by the government's near-total non-participation in the proceedings between 2021 and 2023 (EiE Nigeria, 2024). The enforcement gap in Nigeria is not a single one, either because it is caused by a failure of political will or because it is created by identifiable legal and institutional mechanisms, which is in line with what theory suggests, as elaborated by Chayes and Chayes (1995) and Abbott and Snidal (2000). It would be added to this interpretation of those facts, even if merely as a qualification to the purely mechanistic interpretation, that political sensitivity, which is

Materials and Methods

This study adopts a qualitative documentary research approach, which is particularly suited for examining events evidenced in legal documents, judicial decisions, and official reports, where experimental manipulation or survey-based measurement would be inappropriate (Chayes & Chayes, 1995; Abbott & Snidal, 2000). Primary sources mirror those utilised by the ECOWAS Court, including the Revised ECOWAS Treaty (1993), the 1991 Protocol (A/P.1/7/91), the 2005 Supplementary Protocol (A/SP.1/01/05), the 1999 Constitution of the Federal Republic of Nigeria (as amended), and key ECOWAS Court judgments against Nigeria—such as the 2010 SERAP education ruling, the 2021–2022 Cybercrime Act and Twitter-suspension litigation, the 2024 #EndSARS judgment, and the 2025 Kano State blasphemy-law judgment. The timeframe was purposively chosen to analyse pre- and post-2014 cases, enabling assessment of whether the appointment of a Competent National Authority in Nigeria influenced compliance patterns.

Data were systematically obtained through document analysis and interpreted using qualitative content analysis, focusing on four analytically derived barriers: constitutional-dualist, structural enforcement-design, institutional-coordination, and politically conditioned selective-compliance barriers (Adeyeye, 2024a; Enebeli, 2024). Preference was accorded to original legal texts and judgments for authenticity; only sources independently corroborated by at least two references were included. Every citation was verified against the originating journal, publisher, or institutional record, ensuring independence and reliability. This study does not employ surveys or interviews; rather, its limitation, as with all studies relying on public documents, lies in the inability to access internal governmental deliberations regarding compliance delays, necessitating inference from available administrative and legislative patterns (Alter et al., 2013; Franck, 1988).

Analysis and Discussion

The most basic one observed in this analysis is not administrative, but constitutional. To have a treaty become a domestic law, it must be ratified by an act of the National Assembly under section 12(1) of the 1999 constitution of the Federal Republic of Nigeria before Nigerian courts or agencies will enforce it. This was also confirmed in Abacha v. Fawehinmi (2000), where the Supreme Court held that the African Charter, which Nigeria had ratified and which touched very directly on the conduct of Nigeria's government, was enforceable only because, and in so far as, it had taken the form of a domestic statute under the 1983 Ratification and Enforcement Act. There is no similar domestication provision for the provisions of the Court of the Revised Treaty of ECOWAS or the Supplementary Protocol of the ECOWAS Revised Treaty establishing the jurisdiction of the Court on human rights of 2005. The result is that a writ of execution issued

pursuant to Article 24 of the Protocol reaches Nigeria as a directive to the competent national authority but with no clear, dedicated, statutory process for this authority to transform the writ into a directive that can be implemented, such as by the Accountant-General for payment of compensation, or by the appropriate security agency for compliance with a non-monetary order.

That is exactly the constitutional uncertainty that is cited in the commentaries on the 2025 Kano blasphemy verdict as a doctrine and constitutional problem for every subsequent human rights case brought against Nigeria (Vanguard 2025). On this note, it can be argued that this is a legislative decision and not an oversight; the National Assembly has been able to deal with other, less litigated, regional instruments, and its failure to act on the ECOWAS Court's enabling instruments could be interpreted as an unwillingness to put the federal government to the test of a directly enforceable flow of adverse decisions rather than a mere lapse in the parliamentary schedule.

The second barrier is not in the Nigerian law but in the enforcement system of the ECOWAS Court itself. Since the execution of Article 24 of the Protocol is not under an organ of the Community with binding coercive power but under a national body, the bindingness of Article 15(4) of the Revised Treaty and Article 19(2) of the 1991 Protocol works, in Abbott and Snidal's (2000) words, "as hard law resting on a soft enforcement delegation." This is not a problem peculiar to Nigeria; it is a structural issue common to most international courts, which do not have their own police or fiscal powers (Open Society Justice Initiative, n.d.) and can also be addressed by financial penalties or direct incorporation of the model employed by the European Union, as Enebeli (2024) suggests when comparing the two.

The Enebeli's solution can be analytically correct but politically optimistic, given that the EU's penalty system is predicated on a level of fiscal and political integration that ECOWAS has not advanced that much and which would be most attractive to its strongest member states, including Nigeria. Nigeria's declaration of the Attorney-General of the Federation as the Competent National Authority in 2014 did bring clarity as to who in the Nigerian government has formal responsibility for enforcement, but it did, and can only do, so much because the Attorney-General's office relies upon the co-operation of other federal agencies, discussed in Section 4.3, to make a writ effective.

Though the constitutional and structural issues raised above are put to the side, the practice of enforcement demands that several institutions in Nigeria take coordinated action, a demand that has repeatedly resulted in delay. The #EndSARS judgment of July 2024, which followed the federal government's failure to file any defence in the suit for about two years since it was filed in December 2021, was preceded by the need for coordination between the Attorney-General's office, the Nigeria Police Force and the Lagos State authorities involved in the underlying facts of the case (EiE Nigeria, 2024). The 2010 SERAP education judgment, which required the Federal Ministry of Justice to acknowledge and the Universal Basic Education Commission and eventually the Federal Ministry of Education (FMOE) to follow up on the budgetary and policy implementation, required not only the Federal Ministry of Justice's admission but also the coordinated action of the Nigeria Police Force and the Lagos State authorities implicated in the facts of the case. The judgment itself is followed by commentary that even the remedy that the court did award was "leave open significant questions as to the government's due diligence obligations to investigate and prosecute individual perpetrators, and this requires inter-agency cooperation, which the judgment itself cannot mandate" (Oxford Human Rights Hub, 2024).

From this paper's obsession with the #EndSARS timeline, it therefore suggests that a two-year lapse of time for the failure to file a defence, cannot credibly be blamed solely on the coordination challenge of the agencies; rather, it could be an indication of a deliberate and unwritten plan to use

the time of lapse to delay, which was elaborated in the next discussion section below. Responsibility is formally given to the Attorney-General, who, at the same time as no single statutory enforcement authority, is assigned responsibility for compulsion based on the content of the judgment, and responsibility to act is split across the appropriate sectoral ministry, agency, or sub-national government, but no one is given the power to compel the others within a specified timeframe.

The final hurdle, which is not exclusively of a legal or institutional nature but is a combination of law and politics, is whether the Nigerian executive is prepared to view a judgment as an emergency, which seems to vary based on the political sensitivity of the judgment. Despite the clear determination of the Cybercrime Act litigation that the provision was not compatible with freedom of expression, SERAP's public appeal to the then-president in 2022 was also an appeal for the president to repeal the provision or present an executive bill to the National Assembly for the same purpose. Nigeria's defence in the related case on the suspension of Twitter in 2021 was to invoke “sovereignty” and “national security” explicitly, claiming that the government had the right to suspend such an app “when it deems it to be necessary for the maintenance of security,” which is seen as a condition and not a legal obligation to comply with the suspension (Global Freedom of Expression, 2025). Similarly, the government's substantive defence, which was finally entered in 2023 in the #EndSARS matter, said the underlying protests were illegal and were motivated by ‘disorderly elements,’ which means the underlying facts and, by extension, the judgment that was based on them are ‘contestable' rather than fixed (EiE Nigeria, 2024).

The Nigerian pattern is explained here: where a judgment has low political costs, delay tends to read as bureaucratic; where it engages with education and institutional-repository-style judgments, it is the managerial account of compliance discussed earlier that also explains delay; where it involves elements of security policy, free expression, or the conduct of state security forces, the government's own submissions to the Court directly contest the premises of the judgment, and this study takes those as direct evidence of the Nigerian pattern. None of these answers is a forthright and unambiguous rejection of the jurisdiction of the court; each simply demonstrates that a state is being forced to make an unpalatable decision under the lawful-sounding aspects of any of several laws, the procedural delay, security justification, or dubious findings of fact that a soft enforcement posture of the sort implied by the legalization framework makes available, a posture that a purely technical decision with lower political stakes does not require or reward.

Synthesis: An Interlocking Barrier Structure

The barriers listed above are not four distinct barriers that could be addressed separately; they operate together, and each requires input and action from another for it to be solved. The unanswered constitutional issue of the binding nature of regional judgment and its ability to give local legal effect does not leave any clear area of legal consequences for a writ of execution to become an enforceable Nigerian order. That gap can only be plugged from within, and there is no independent way for the Court to require that to happen: a judgment can be sent to the Court's designated national enforcement authority in Nigeria, but sending a judgment is not the same as execution, and there is no way for the Court to ensure that it would be executed. The issue is exacerbated by the lack of responsibility within the Nigerian bureaucracy because even if the executive does want to comply, they have no power to force the cooperation of the several ministries, agencies, and, if applicable, sub-national governments needed for a particular judgment. Therefore, depending on the political sensitivity of the underlying issue, the executive expends more or less of its energies to overcome these hurdles in a given case; a judgment concerning education financing is more likely to be deadlocked by the commonplace inertia of

ordinary bureaucracy than a judgment concerning security policy, protest policing, or freedom of expression would be.

This interaction from reading, when taken together, reads like a proof of why the non-compliance drift in Nigeria could not be corrected by the designation of a competent national authority in 2014. This meant only the shallowest of answers to the questions that were appearing and named a designated office, nothing else; the constitutional, coordination, and political-incentive problems were completely left aside. It is not coincidental that the reportage of civil society monitors and investigations of Nigeria's actions have uncovered not one, but dozens of outstanding judgments since 2024 and 2026 and, further, that it is in keeping with this interlocking structure that each judgment contributes to the previous one and augments the next, rather than being isolated and in need of its own explanation.

This researcher's own view, presented here as the main thrust of this article, is that the turn of this Court's recent rulings to appealing to appellants and to civil society to help him fill the enforcement void, as well as his attention to public discussion of access-to-justice reform, is a welcome recognition of the problem at the top of the Court's leadership team, but it is not a solution to the legal and institutional problem identified herein. Civic pressure does not generate a domesticating statute, nor does it provide an empowered enforcement authority, nor does it provide an inter-agency coordination mechanism, without which the pattern that is documented here simply cannot exist. If any action that requires civic vigilance but doesn't attempt the structural fixes outlined above is considered a solution to Nigeria's enforcement gap, then it is treating the symptom of the barrier structure and not the structure itself.

Conclusion and Recommendations

The paper has confined a larger question of compliance and defiance to the dimension of the enforcement of ECOWAS Court judgments in Nigeria. Constitutional instruments of the Court, Nigeria's constitutional order, and a limited number of cases decided from 2010 to 2025, along with the scholarship and institutional reporting to date in 2026, are evidence that non-enforcement in Nigeria is not random but a multi-faceted phenomenon. It is the result of the dual nature of the constitution of the ECOWAS, which requires that treaties be domesticated before they have the force of law; the structural reliance of the ECOWAS court on the national executive for implementation; the lack of a coordinating office among the member states to enforce the court's decisions; and the fact that the Nigerian executive is more inclined to follow more politically expedient decisions of the court. In this sense, therefore, the court’s power is binding in law but lacking in force in fact, which is what happens to the treaty structure to give the courts the power to adjudicate without the power to execute.

Based on this analysis, five recommendations are made, each targeting one of the specific weaknesses identified during this study.

1. The provisions of the enforcement of judgments under the Revised Treaty on the Judgments (Enforcement) of the ECOWAS must be domesticated through a new ECOWAS Court Judgments (Enforcement) Act, which is to be enacted by the National Assembly and which is to clarify with the same statutory precision as any domestic enforcement of judgment procedure the process to be followed by Nigerian institutions in the execution of a Writ of Execution under Article 24 of the Revised Treaty on the Judgments (Enforcement) of the ECOWAS. This would fill the lacuna in the Constitution, which otherwise leaves a binding regional judgment without a clear path into the Nigerian system of law.
2. The Office of the Attorney-General of the Federation, as the Competition National Authority

already in existence, should be vested with express statutory power to direct and fix binding timetables for the sectoral ministries and agencies that are to be involved in the execution of any judgment, and reports of progress on the status of outstanding judgments should be made periodically to the public before the National Assembly. This would end the current system where responsibility is ostensibly given and hardly enforced, with a single office having the power to enforce coordinated action.

3. Nigerian courts, through conscious judicial training and conscious advocacy by counsel, should engage more directly with ECOWAS Court jurisprudence as the Supreme Court did in Abacha v. Fawehinmi (2000) and thereby reinforce, instead of circumventing, regional judicial rulings when appropriate.

4. The ECOWAS should explore ways to enhance the follow-up mechanism it has in place for the Court, with some lessons from the experience of the CJEU in incentivizing compliance but acknowledging that not every lesson that the CJEU draws from its experience can be replicated on ECOWAS level given the lack of similar fiscal and political integration within the ECOWAS.

5. The reputational cost of continued non-compliance by government, which is raised by sustained civic and media engagement with the Court's docket (as already being undertaken by SERAP and now actively encouraged by the Court's own leadership) (AllAfrica, 2026), is a necessary, but on its own insufficient, complement to legal and institutional reform, since it raises the reputational cost to government of continued non-compliance even in the absence of domestic legal compulsion.

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