

Case-study for LIDW

Facts

1. In January 2021, **Moscow Energy**, a Russian energy company, entered into an EPC contract with **Britconstruction plc**, an English construction company, for the construction of a power plant in Russia.
2. The EPC contract was governed by English law and submitted all the disputes to a sole arbitrator, under the ICC Arbitration Rules, with a seat in Paris, France.
3. In March 2022, Moscow Energy was designated by the UK and, consequently, Britconstruction plc ceased performance of its obligations under the EPC contract, alleging supervening illegality and frustration of the EPC contract based on the UK sanctions.
4. Moscow Energy initiated litigation against both Britconstruction plc and **its Russian subsidiary** (not a party to EPC contract) for breach of the EPC contract, in Russia, invoking Article 248.1 of the Commercial Code of Procedure of the Russian Federation (CPC), introduced in 2020.
5. Article 248.1 of the CPC establishes the exclusive jurisdiction of Russian courts over disputes (1) involving Russian sanctioned entities and/or (2) related to sanctions. Exclusive jurisdiction may be established even if there is a valid forum selection agreement between the parties.
6. Britconstruction's General Counsel invited European and Russian counsels to a preliminary brainstorm discussion of the approach to the proceedings, available options and risks.