

Case summary

Issue(s)

1. What is the correct approach to determining the proper law of an arbitration agreement?
2. What is the relevance of the parties' choice of law for the main contract under Rome I?
3. What is the role of the court of the seat of an arbitration and in what circumstances is it appropriate or permissible for the English court to permit a foreign court to decide whether proceedings before the foreign court are a breach of an arbitration agreement?

Facts

After a fire broke out in a power plant in Russia, Chubb Russia, the insurers of the plant's owners brought proceedings in Russia against Enka, a subcontractor, alleging liability for the fire. Enka began proceedings in England contending that the dispute was subject to an arbitration agreement in the contract under which it had performed the works, and seeking an order that Chubb Russia discontinue the Russian Proceedings ("an anti-suit injunction"). Enka's claim was dismissed by the High Court at first instance at an expedited trial. The Court of Appeal subsequently allowed Enka's appeal, granting an anti-suit injunction and restraining Chubb Russia from appealing the decision of the Russian court. Chubb Russia seeks to appeal.