

Aviation

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< Previous

London Market Quarterly Spring 2024

Next >

Arbitration Clauses

A recent decision by the Commercial Court in London ruled that the ongoing dispute between reinsurers and aircraft leasing companies arising from aircraft stranded in Russia following Russia’s invasion of Ukraine will be heard in England.

In **Zephyrus Capital Aviation Partners 1d Limited & Ors v Fidelis Underwriting Limited & Ors**, the Court rejected jurisdiction challenges brought by a number of international reinsurers that had sought to rely on Russian exclusive jurisdiction clauses (ECJ) in their reinsurance contracts with Russian airlines.

Mr Justice Henshaw concluded that the Claimant aircraft lessors were unlikely to receive a fair trial in Russia for several reasons, including, substantial Russian State exposure, the Russian courts being unlikely to objectively determine certain issues, Russian State interest in subrogated claims and the Claimants being from what were regarded (by Russia) to be ‘unfriendly foreign states’.

Despite the importance of comity between courts and giving effect to EJC’s, Henshaw J concluded that the unlikelihood of a fair trial was a ‘strong reason’ for declining to stay the proceedings.

Meanwhile, separate proceedings between the aircraft lessors and insurers are due to go to trial in October this year, we shall continue to watch the progress through the English Courts over the months ahead.

Contents

London Market Quarterly Spring 2024	→
Aviation	→
Arbitration Clauses	→
Covid BI litigation update	→
Director and officers: Scope of duty	→
Energy	→

[Regulatory](#)



[Vesttoo](#)



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