

London fears over flight of oligarch cash

A future without Russian clients has been debated at London International Disputes Week

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Last week Liz Truss, the foreign secretary, announced plans for a trade ban on professional services to Russians in Russia
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Litigators have been in best bib and tucker in London since Monday as the city hosts the fourth annual international disputes week in a bid to bolster the capital's position as the premier venue for resolving big-money rows.

However, they broke out the charm and the canapés against the backdrop of potentially losing one of their biggest groups of customers: Russian oligarchs.

Days before the curtain rose at Central Hall Westminster, Liz Truss, the foreign secretary, announced a trade ban on professional services to Russians in Russia. For the time being, the ban applies only to accountancy, consultancy and public relations firms — but ministers were clear that lawyers could eventually be in the frame.

Some speculate that heavyweight lobbying by the legal profession kept lawyers out of the ban for now. Regardless, all the “magic

circle” firms in the City — along with several other English and US practices — have packed up their Russian outposts as a result of western sanctions on the Kremlin after Vladimir Putin invaded Ukraine.

Organisers of the conference had to scramble to cancel a high-profile session on Russian litigation and replace it with a hastily convened seminar on dispute resolution opportunities from Ukraine and elsewhere in the former Soviet Union.

The Russians will be missed. Last year a report on users of the London commercial court showed that they formed the third largest nationality of litigants, after the UK and US. Names such as Berezovsky, Deripaska and Abramovich have a certain folklore about them around the Inns of Court.

For this year’s disputes week the organisers wheeled out some big names of their own, including Lord Reed of Allermuir, the president of the Supreme Court, and Sir Geoffrey Vos, the master of the rolls.

But the question of whether the Russians will be allowed to return to London — and if they will want to do so — clouded the event.

“The political and humanitarian agenda is rightly dominating people’s thinking now,” says Loukas Mistelis, a partner at Clyde & Co, who sits on the event’s organising committee. Over time, he says, “there will need to be some reflection about the longer term consequences, including for the rule of law. It’s too early to say how it will play out in terms of Russian disputes, but we need to remember that some of the strengths of London are upholding the rule of law and access to expertise. It is vital that these fundamental tenets remain in place.”

Tomas Vail, the founder of a specialist arbitration law firm, Vail Dispute Resolution, is confident that the Russians will return to the London courts if they are allowed back. “Russia’s illegal invasion of Ukraine has led many businesses to cease trading with Russian partners, in parallel with the growing imposition of sanctions and triggering of force majeure clauses,” Vail says.

“We should nonetheless expect Russian parties to seek to enforce any contractual rights through the relevant dispute resolution provisions — so we are likely to see more of such disputes in the months to come,” Vail adds.

Khawar Qureshi QC, the head of McNair International chambers in London and Qatar, warns that the events in Ukraine “should not be used as a cover to undermine the fundamental right of access to justice for any party, subject to safeguards such as prompt and consistent operation of the sanctions licensing regime”.

Qureshi highlights the old maxim that regardless of how horrific events may be, there is generally a silver lining for lawyers.

“International commercial litigators are likely to be focusing on the substantial legal fallout from the Ukraine conflict in terms of contract and investment treaty based claims for damages,” he says.

Questions over the future of Russian parties in London’s commercial court and alternative dispute resolution centres is not the only issue worrying London’s litigation elite. Threats from other jurisdictions continue to loom.

“While London is second to none for disputes,” says Richard Bamforth, a partner at CMS and event committee member, “the way it is organised means there has historically been no co-

ordination or centralised advocacy for it, or collaboration between arbitration, mediation and litigation communities.”

In contrast, says Bamforth, “the jurisdictions seeking to compete with London have all adopted English law as a prerequisite for building credibility”.

Then there is the issue of legal fees, which in London seem to have no limit. Last month, senior judges reprimanded partners at the City office of the US law firm Cleary Gottlieb for charging an hourly fee of £1,100 — more than double the rate set in court guidelines.

“Costs are also something we should be aware of,” Bamforth says, “but we do not see it as a threat as long as the disputes community listens to clients and evolves, such as by moving further away from the hourly rate towards other models.”

Despite troubled times and a boom in competition, London disputes specialists remain buoyant. Henrietta Jackson-Stops, a mediator at IPOS Mediation and an organiser of this week’s event, says that “we should also acknowledge London’s holistic approach to disputes with a mature alternative dispute resolution industry, as well as arbitration and litigation with cross-jurisdictional expertise.

“The UK market has real depth and experience in its mediation community. If we look at the growing role of mediation elsewhere it is vital that we actively promote it here.”

Litigators will hope that the right people in Westminster and Moscow are listening.