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CONSTRUCTION DISPUTES IN THE UK & EUROPE

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EXPERT FORUM

CONSTRUCTION DISPUTES IN THE UK & EUROPE



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Adam McWilliams is a partner in Quinn Emanuel's London office and represents clients in disputes around the world. With extensive experience acting in international arbitration and cross-border cases, he has represented energy, infrastructure, construction and natural resources clients in all manner of complex claims, and he is particularly experienced with major projects in the renewable energy sector. Having previously worked on assignment in the global disputes group at a major international bank in London, he also acts in high value finance, commercial and civil fraud disputes.

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CD: What opportunities and challenges are currently affecting the construction industry in the UK & Europe? How would you describe the complexity and scale of ongoing projects?

Sydenham: In the UK, government-backed initiatives for new housing and infrastructure, energy transition, digital innovation and regional growth create opportunities. Sizewell C Nuclear Power Station and airport expansion at Heathrow are among the major projects recently approved or being contemplated. Ambitious projects are also being pursued in Europe, in many sectors including, for example, transport. Italy, for example, has recently approved a multibillion-euro project to build the world's largest suspension bridge linking the Italian mainland with Sicily. Challenges include planning delays, escalating costs and reducing margins, market volatility and insolvency risk. Regulatory complexity has increased significantly in the housing sector in the UK following new laws introduced after the Grenville fire tragedy. Labour shortages are also a significant challenge. It has been reported that the UK needs somewhere in the region of half a million new workers by the end of the decade, due to retirement of older workers and insufficient younger workers coming into the industry.

Coxworth: The UK and European construction sectors are benefitting from strong public investment in housing, transport and energy infrastructure, ambitious government targets such as the UK's plan for 1.5 million new homes and robust market growth forecasts. Easing inflation and lower interest rates are improving financing conditions, while the adoption of technologies like building information modelling (BIM) and modular methods is boosting efficiency – enabling delivery of increasingly large and complex projects such as data centres, gigafactories and renewable energy facilities. In terms of challenges, the construction industry in the UK and Europe faces persistent skills shortages, with new workers needed over the next few years. Falling demand for key materials like concrete signals slowing activity in some sectors, while regulatory changes – such as stricter building safety requirements – are increasing costs and extending timelines. Combined with tight margins, rising insolvencies for owners, developers and contractors, and competition for labour resources, these factors create significant challenges for project delivery.

Bremen: There remain considerable challenges both within the UK and Europe in the construction sector. The fallout from the global pandemic – principally related to delays in the supply chain – have been exacerbated by cost inflation and labour scarcity across the board. This is further impacted

by issues arising from the broader geopolitical environment, in particular conflicts causing delays in logistics routes, in some sectors forcing a change in suppliers arising from Russian sanctions or the uncertainty arising from sourcing certain construction and industrial materials and equipment from Ukraine. The US government's shifting and uncertain tariff position has also impacted the industry where materials and equipment are being sourced internationally. Finally, falling productivity levels of construction workforces, coupled with a generally inflationary environment in relation to wages and conditions, have had both cost and time impacts across the industry.

McWilliams: Global economic pressures are creating both opportunities and structural challenges across UK and European markets. The UK's £775bn infrastructure commitment spanning 660 projects, including Thames Tideway's £4.5bn project and major gigafactories, mirrors global energy transition investment patterns seen in Asia to the Middle East. However, critical stress points persist: Europe faces nearly a million recruitment needs over the decade, with construction representing 16.2 percent of UK insolvencies. Germany's national hydrogen pipeline network and Spain's strategic offshore wind plans highlight the scale of Europe's energy transformation. Both countries are investing in major infrastructure with, respectively, over 9000km of

hydrogen pipelines to connect key industrial hubs and a comprehensive framework to rapidly expand offshore wind capacity. However, this shift comes with growing regulatory complexity that demands knowledge mastery and inclusion in the project's contracts, schedule and ethos. Net-zero compliance, perennial BIM Level 3 integration, and cross-border supply chain management remain key. Smart players are therefore positioning contracts to address these new challenges and thereby avoiding fighting over what can sensibly be defined and evaluated ahead of time.

CD: What are the primary causes of disputes in construction projects in the region? What types of disputes commonly arise during project planning and execution?

Coxworth: Construction disputes in the UK and Europe frequently stem from a lack of clarity and expectations in contracts, financial stress by both the contractor and owner, unachievable construction schedules and regulatory changes. These, among other typical project challenges, can significantly impact delays, scope variations and payment claims. Mitigating risks starts with clear contracting, accurate design, a robust schedule development with float and other sensitivities understood, and

proactive risk management, including clauses for variations, extensions and dispute resolution.

Bremen: Disputes which arise are almost universally the same across most construction projects – projects being delayed and costing more. These time and money claims have different settings dependent upon the forum and jurisdiction within which they are resolved. For example, the UK's statutory adjudication scheme has dramatically reduced the scope of disputes being referred to courts, although the process is often one that, while fast, produces imperfect results. However, most parties are not seeking to challenge the decisions of adjudicators, instead preferring to live with them and focusing on completing the project. While delays, for example, generate claims for time and money on the contractor side, they are almost always matched with claims for liquidated damages for the delay on the employer side. Better management of programmes at tender and execution phase would go a very long way to address these disputes, however they remain the most common type arising on large projects worldwide.

McWilliams: Established challenges of recent years include regional conflicts driving material price volatility, inflationary pressures and geopolitical tensions fragmenting established supply chains or

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*Randall Coxworth,
StoneTurn*

tariffs. Atop this, there are new sanctions compliance disputes emerging where projects face restrictions on materials or subcontractors, while insurance disputes over expanded exclusions and new risk definitions are also arising. Traditional dispute patterns also still persist in terms of payment delays, design coordination failures and scope creep disagreements, with shifting context as a result of margins being hit and some fatigue in the sector resulting in more aggressive claim strategies. Additionally, cross-border projects still face the

additional complexity of divergent laws, mindsets, disputes and other contract-essential locations.

Sydenham: Broadly, the primary causes of disputes in construction projects fall into one or more of three categories: time, cost and quality. Complex projects typically take longer and cost more than planned, and defects become apparent when the infrastructure has been partially or entirely built. Often, all these things happen together. Disputes arise over which party bears the consequences. In project planning, foundations for subsequent disputes may be laid as a result of incomplete or inconsistent specifications, and unrealistic budgets and timeframes. In execution, changes in scope – often the result of failing to specify the scope adequately upfront – are regularly identified in industry surveys as one of the most common causes of dispute. Construction contracts cater for change, but the application of the contract terms in different factual circumstances is often contentious, especially if money or time on the project is otherwise tight.

CD: How is regional conflict impacting product availability and material price stability? What specific effects is inflation having on construction costs?

Bremen: Global conflicts, political instability and a shifting logistics and sanctions environment has placed considerable stress on supply chains. In some markets this is coupled with construction market capacity issues – giga projects in Saudi Arabia have occupied much of the world's available craneage, for example – and where the larger construction players are international this invariably has knock-on consequences for the industry. This environment is coupled with increasing difficulty in terms of contractor's capacity to source labour forces from abroad. The UK's exit from the European Union (EU), for example, has had a significant impact on the construction industry where most labour forces for the larger projects were drawn from across the EU. All of these issues will combine to place greater inflationary pressure on the construction sector over the next few years.

Sydenham: The war in Ukraine has impacted the export of materials such as steel, iron, timber and chemicals from Russia and Ukraine, and severely impacted European and UK supply chains for such materials, resulting in reduced availability and extended lead times. There have been severe spikes in, for example, the price of steel and aluminium in recent years. Energy price volatility, arising from the removal of previously relied upon Russian gas and oil, has raised prices in energy-dependent materials, such as steel, cement and plastics. Tensions in the

Middle East have affected supply routes. These issues contribute to inflation generally, impacting the cost of construction, and also to longer timelines.

McWilliams: Global geopolitical tensions have created sticky structural changes in construction costs beyond temporary volatility. For example, Middle East conflicts threaten the Strait of Hormuz – which is responsible for 20 percent of global oil – fundamentally repricing energy-intensive materials like steel, following years of repricing due to inflation, wars and supply chains. While UK sourcing from China, Europe and domestic production limits direct exposure, energy pricing creates lasting material impacts across the continent. Here, European construction costs demonstrate the new reality: UK materials increased 60 percent versus the 35 percent EU average between 2015 and 2022. Construction-specific inflation diverges significantly from the consumer price index, creating budget miscalculations when parties use outdated benchmarks or miss new pricing strategies. In Q3 2025, there is some stabilisation afoot with more predictable increases, contrasting with extreme volatility and the use of price variation mechanisms tied to construction-specific indices rather than general inflation.

Coxworth: Regional conflicts, particularly the war in Ukraine, are intensifying volatility in construction

material costs and availability across Europe. Energy price shocks, supply chain disruptions and limited access to required raw materials, specifically in iron ore, have pushed prices upward and introduced uncertainty. While other conflict zones like Israel and Gaza exert indirect pressure on global markets, the Ukraine war remains the primary driver of disruptions affecting the construction sector currently. Inflation is increasing construction costs in the UK and Europe through rising prices for materials, labour, equipment and transportation of project materials, with a direct impact due to energy cost spikes and supply chain disruptions. Skills and labour shortages are putting pressure on labour wages, which disrupts the ability to predict construction costs before and throughout the project. Due to price volatility, contractors are trying to negotiate escalation clauses and other contractual terms to limit their financial risk when delivering projects.

CD: What are the most effective dispute resolution mechanisms for the construction industry in the UK & Europe? How do legal frameworks and practices vary between countries?

McWilliams: The region's dispute resolution is evolving, with the UK introducing some best in class procedural innovations in its updated Arbitration

Act 2025. Enhanced summary powers position arbitration to continue to handle complex, high-value disputes. All countries differ somewhat in their approach to arbitration, as well as in levels of confidence in the supervising courts and in the written procedure matter. Industry regulation continues to affect disputes, and we are seeing national significant infrastructure being identified differently and treated apart in some ways from other disputes – for example, energy, including different types of energy projects, and the need for novel contracts to account for changes in traditional energy and the wider variety of renewables under construction today. Despite all the changes, mediation continues to have something of a renewed value in international disputes ahead of arbitration and litigation taking place if needed. Accordingly, default standard forms always need to be considered and revised if judged necessary, as the default can leave significant competitive advantages overlooked, and this can cost later in terms of fees, time, standing, relationships and the final outcome.

Coxworth: Each dispute will come with its own complexities, but some common themes include UK domestic projects often relying on adjudication for quick, enforceable outcomes, followed by mediation

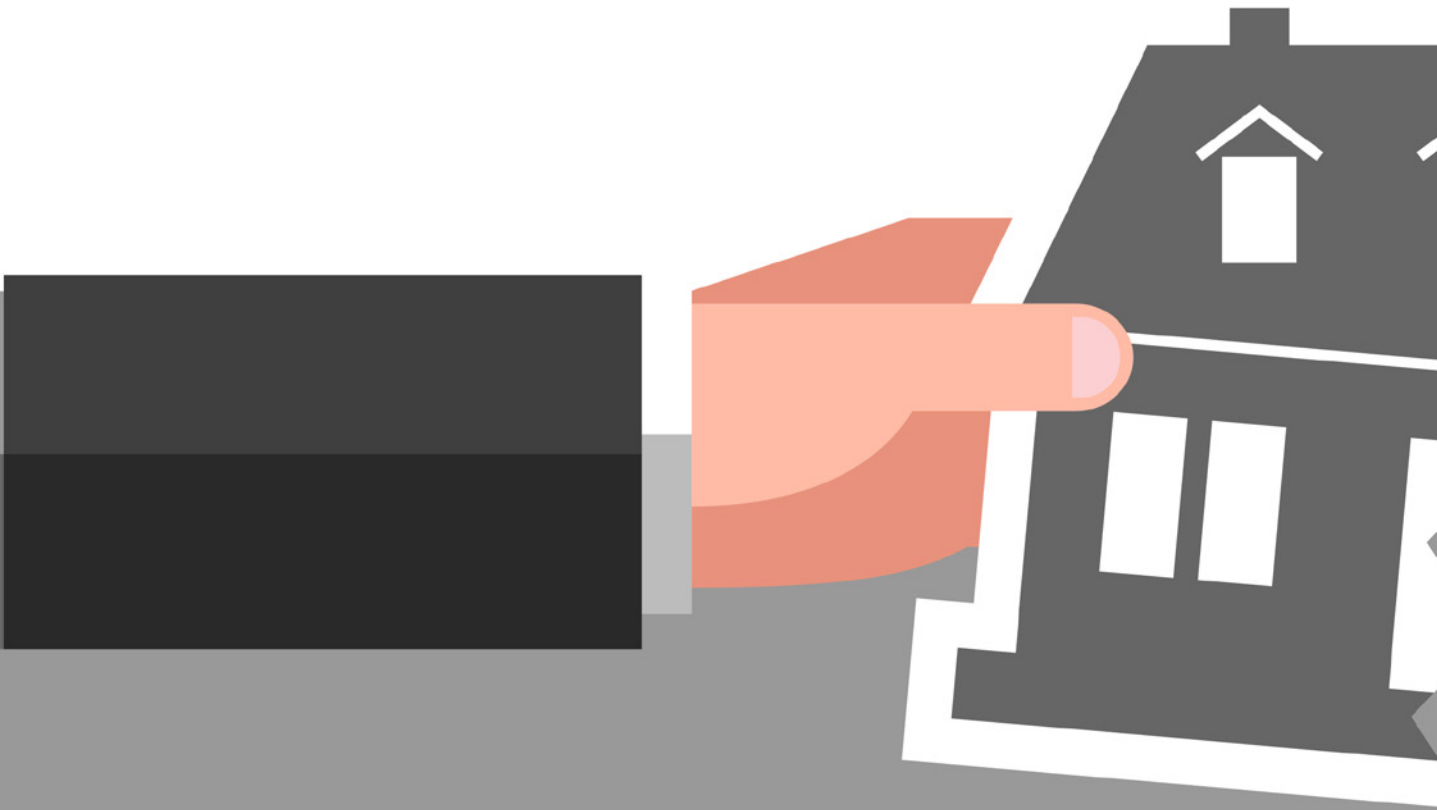
or litigation if needed. EU and cross-border projects favour arbitration and dispute boards to manage complexity, multiple jurisdictions and ongoing

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*Adam McWilliams,
Quinn Emanuel Urquhart & Sullivan UK LLP*

relationships. In addition, mediation is increasingly encouraged across both regions as part of early dispute avoidance strategies.

Sydenham: In the UK, the availability of adjudication to resolve construction contract disputes has been mandatory since the introduction of the Housing Grants, Construction and Regeneration Act in 1996. It is a quick form of dispute resolution that has proved to be remarkably effective at resolving the majority of disputes once and for all, even though the parties may be entitled to refer a dispute that has been decided in adjudication to arbitration or the court. With projects outside



the UK, dispute review and adjudication boards – as promoted in the widely adopted International Federation of Consulting Engineers forms of contract – perform a similar function, although without the statutory backing that adjudication benefits from in the UK, enforcement of a decision from such a board can be more problematic. The prevalence of disputes in the construction industry has resulted in many other forms of dispute resolution being adopted, often in a multitiered approach. Other examples include expert determination, early neutral evaluation and mediation. In Europe, general civil law systems apply, with less reliance on specialised courts, expert testimony and wide-ranging disclosure

of contemporaneous documents. The two systems can collide in international arbitration, where the parties and the arbitrators involved in a dispute may come from different legal backgrounds and have different leanings.

Bremen: The UK 's statutory adjudication regime has considerably reduced the number of matters referred to formal disputes through the courts. European countries have not adopted this scheme, with disputes generally being referred to



the courts in those jurisdictions and in some cases to contractually mandated arbitration. The UK's regime provides for fast interim orders with the goal that the contractor's cash flow position remains liquid during the build. The perception is that the adjudication process itself generally favours the contractor. Having said that, the process is only binding on an interim basis and, as such, if a party is dissatisfied with a decision they can refer the matter to court or arbitration, dependent upon the contract's requirements. Where the process is one

that deals with individual claims as they arise, the sums in dispute are not often very substantial and the evidence is that on balance most adjudication decisions are not challenged, even where the employer feels the decision may be wrong. This has had some success in reducing the number of insolvencies in the UK construction industry, however it still remains higher than one might expect.

CD: As the construction industry adapts to more technologically advanced projects, what lessons can businesses learn to prevent future issues?

Coxworth: As UK and European construction projects adopt advanced technologies such as BIM, robotics and modular methods, early and accurate scope maturity and definition has become essential to avoid costly changes and design rework. Building and adopting digital capabilities across the supply chain, encouraging data standards and ensuring platform integration can prevent delays and duplication. Technology adoption with project delivery should be managed as its own risk process, with contingency planning, cyber security safeguards and real-time monitoring to identify issues early. Contracts must address digital deliverables, data ownership and dispute resolution for data and tech-related matters, while post-project reviews ensure lessons are applied to improve future project delivery.

Sydenham: Technology is increasingly influencing both how things are built, including BIM, digital twins, cloud collaboration, drones and robotics, and what is built, such as smart buildings and infrastructure, and increasingly sophisticated sensor and control systems. There are many examples of technology contracts going badly wrong, often from lack of clarity or clear responsibility for developing scope – for example, a client has an idea of what it wants but does not know what the system is capable of,

or the supplier knows the capability of its system but does not understand the client's business adequately. Efficiencies may be achievable through

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Joseph Hage Aaronson & Bremen LLP*

integrated project platforms, but it is important to ensure that everyone is trained on how to use them. Technology-heavy projects carry higher risks of design iteration, as well as software and hardware changes, and supply delays. Businesses should include contingency time and budget for retesting systems and integrating new components, and expressly cater for software upgrades, cyber security and interoperability.

Bremen: The use of real-time monitoring of projects and workforces will go a long way to eliminate disputes across the construction sector. In some jurisdictions there is already technology in

use which provides for the extensive use of drones, site cameras and tracked hard hats that monitor the progress and productivity of a workforce on site in real time, and which can produce reports for both employers and contractors to identify issues early and establish a common fact set such that the grounds for disputes will be considerably narrowed. This technology faces challenges in the EU and UK due to privacy laws and the requirement for individuals' consent for it to be deployed. In those countries where it is allowed, it has proven to be a powerful tool for both project management and dispute avoidance. Where productivity of workforces in both the UK and Europe is becoming an increasing issue on large projects, there may be some revisiting of the regulatory frameworks to provide for better opportunities for this technology, or similar technology, to be deployed as a project management tool.

McWilliams: Technology integration across countries continues to demand sophisticated risk allocation, anticipating cross-border data and liability challenges. Disputes ahead may include artificial intelligence (AI) authority, data sovereignty across jurisdictions and liability for algorithmic errors, which will likely be amplified when projects span multiple legal systems. AI will likely not have one standard, and any standards will almost certainly be in flux as the technology evolves for some time yet. BIM Level

3 forward-thinking remains a strategic transition in terms of harnessing full lifecycle operational data integration aided by AI and real-time monitoring. Strategic advantage flows to parties allocating risks and thinking ahead to dispute avoidance. Thus, consider defining AI protocols clearly, establishing data ownership in line with privacy laws, and ensuring that new technology providers accept appropriate liability where possible.

CD: What key advice would you give businesses to minimise the risk of disputes and prepare for resolution if conflicts escalate?

McWilliams: Contract drafting demands both depth and breadth: clear scope definitions working across regulatory systems, change order procedures anticipating sectors, currency, technology and regulatory variations, as well as tiered dispute resolution aligned with jurisdictions and possible claim types. Positioning for resolution success involves maximising investment in early warning systems as part of project controls. Here, BIM Level 3 integration provides real-time clash detection and automated change documentation, creating audit trails that may reduce coordination disputes through predictive analytics and shared data, although industry implementation still lags due to consistency and training. Finally, evergreen dispute

tactics include maintaining all key documentation and assembling teams with the right skills for project controls, commercial and legal functions.

Bremen: The tender process needs to be far better managed on the employer side such that the request that goes out to the market is well scoped, thought through technically and has a realistic programme. In addition to having a very clear idea of what the employer wants, this should be clearly set out in the form of contract chosen. Newer forms of contract, such as the new engineering contract form, introduce great uncertainty in terms of cost and time because the form itself is deliberately vague in a number of respects and seeks to build a relationship of 'good faith' between parties. In a commercial situation, this can only be good for contractors and bad for employers. A good contract ought to have a very clear, achievable set of promises and a well thought-out scope that has been agreed before award. The clearer the terms and the scope, the less opportunity there will be for disputes to arise.

Sydenham: Time spent up front is likely to be time well spent. Ill-planned projects, with incomplete or inconsistent specifications, and poorly assessed timeframes and budgets, will run into trouble. Unfortunately, real world pressures – political, financial and others – mean that sufficient attention is rarely put into the preparatory stages. It is also

true that not every eventuality will be predicted even with the best planning. The best strategy for minimising and resolving disputes will be a combination of prevention, prompt action to resolve emerging conflict and strategic planning for disputes not readily resolved. In any formal dispute resolution process, good records will be critical.

Coxworth: To reduce the risk of disputes, construction businesses should focus on prevention through concise contracts, clear scope definition and well-understood risks. Ambiguities in obligations, specifications or timelines often fuel conflict, so terms must be agreed in detail during the pre-contracting phase. Scheduled and deliberate communication channels with a clear project governance structure, and monthly progress reviews, assist in identifying and addressing issues before they can escalate, while fostering collaboration between owners and contractors. Good project discipline is key to the success of projects. Rigorous documentation and proactive requests and status are essential. Maintaining detailed, contemporaneous records – supported by digital platforms accessible by both owner and contractor – ensures there is clear evidence of the path of decisions, or lack thereof, if disagreements arise. Contracts should include dispute resolution clauses and preferred mechanisms, with contractor and owner's teams trained to spot early warning signs

and follow agreed escalation routes. Businesses that combine clarity, disciplined record-keeping and proactive risk management are better positioned to avoid disputes altogether, or to resolve them quickly and effectively if they occur.

CD: In light of global challenges, how do you see the causes and solutions to construction project disputes evolving in the region in the coming months and years?

Bremen: The primary areas of difficulty in the UK and EU construction market flow from the changing domestic and international political environments.

Free movement of people, or at least a capacity for labour to move on a project by project basis, as needed, will remain challenging in the current political environment. This, coupled with both salary inflation and productivity deflation in terms of the domestic labour markets in the UK and EU, will present greater challenges for projects in the UK and EU over the next few years. The interconnected and international nature of global construction equipment and materials supply chains are challenged by ongoing global conflicts, a less friendly import export environment globally – including, but not limited to, tariffs and customs environments – as well as ongoing supply chain weakness and delays

as a result of an increasingly complex sanctions environment.

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Sydenham: In many respects, causes of construction project disputes will remain as they have always been. However, current global challenges suggest that supply chain fragility, sanctions and geopolitics, inflation, regulatory complexity, weather extremes, digital and cyber risks and skills shortages may all cause difficulties for projects, leading to disputes. Contract drafting will continue to develop to address some of these issues more specifically, with a view to clarifying the allocation of impacts between the parties and so avoiding disputes. Early involvement of dispute advisers or resolvers, such as in the case of standing dispute review boards, may increase, at least in the

case of significant projects where the expense is justified. AI tools will be increasingly deployed in the gathering and presenting of evidence to tribunals. For complex construction projects, the time when the arbitrator or judge is replaced by a robot may still be some way off. However, the time when an arbitrator uses a software programme to produce the first draft of an award may already have arrived – even if we are not told.

Coxworth: In the UK and Europe, solutions to construction project disputes are evolving toward faster, more collaborative approaches, reflecting the industry's need to maintain project momentum, control costs and preserve relationships. In the UK, statutory adjudication remains the dominant form for quick, enforceable decisions, but its use is expanding beyond payment disputes into more complex technical issues, often supported by digital evidence from BIM, drones and project management platforms. Mediation is also gaining traction as an early intervention tool, encouraged by the courts and integrated into contractual dispute avoidance processes, as it has been a successful platform in the US. Parties are also refining contract terms in various forms to agree upon clearer dispute escalation pathways and avoid ambiguities that have previously triggered more drawn-out conflict resolutions. Across Europe, there is a stronger shift toward dispute avoidance

boards and dispute adjudication boards, particularly on large infrastructure and cross-border projects. Arbitration remains the preferred route for high value or international disputes, but procedural innovations – such as expedited arbitration rules and virtual hearings – are making it more efficient. Overall, the trend is toward dispute avoidance over resolution, with parties using early mechanisms for neutral evaluation, collaborative contract forms and real-time third-party monitoring to prevent issues from escalating, while still maintaining a mix of adjudication, arbitration and litigation options for when settlement is not possible.

McWilliams: Dispute landscapes are evolving as the Arbitration Act 2025's summary disposal powers create improved certainty and opportunities for UK-seated arbitrations that include disputes from around the world. Sophisticated parties can now eliminate weak claims early using the established 'no real prospect of success' test, while any procedural appeals process limits jurisdictional challenges to prevent tactical re-runs of tribunal decisions. In general, there is a rush to keep the established up to date rules as final and binding dispute resolution. Predictable laws and regulations are expected to remain the backbone protection for parties and projects. In the new sphere, disputes involving crypto-based agreements are increasingly arising as blockchain smart contracts are adopted in

construction projects. While these contracts promise automation and transparency, they can introduce new challenges, such as coding errors, unexpected execution of contract terms and difficulties in resolving disagreements when automated systems malfunction or interpret contractual clauses incorrectly. This emphasises the need not only to grasp these new tools but for construction teams, government and legal institutions alike to bring them into the existing framework for certainty and any dispute resolution. That process remains a work in progress. **CD**