



Markus Esly

Senior Associate

Markus Esly, a senior associate in Howrey's London office, specialises in international arbitration, and has arbitrated under all major institutional rules (including ICC and LCIA). In addition, Markus has conducted proceedings before all levels of the English courts (including the House of Lords) and in adjudications / mediations.

Markus has worked across a number of industries but primarily focuses on projects, engineering, construction, infrastructure, rail, energy, utilities, commercial contracts, investments and insurance. His clients include international EPC contractors, based in England, the United States, Asia and the Middle East. He has particular experience in complex delay and disruption claims and is well versed in the international forms of contract currently in use.

Markus acts as an advocate in arbitration matters. He has considerable experience in drafting pleadings in complex disputes, as well as cross-examination of expert witnesses before a tribunal.

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EDUCATION

Cambridge University, Magdalene College (BA (Law), 1998), *First Class Honours*. Bundy Scholar of Magdalene College and Norah Dias Prize for Law (Finals).

CLERKSHIP

Judicial Assistant to Lord Phillips, Master of the Rolls (now Lord Chief Justice of England and Wales), at the Court of Appeal (Summer 2001). The work of Judicial Assistants includes preparation of memoranda on upcoming cases for review by the Lord Justices.

REPRESENTATIVE MATTERS

- *ICC Arbitration concerning a petrochemical plant.* Representing a major Japanese contractor in an ICC arbitration arising out of the construction of a petrochemicals plant in Northern England. The case involves claims for the cost of additional works, delay claims (including prolongation) and disruption claims. The amount in issue has exceeded £20 million.
- *Long-term contract for rail infrastructure works.* Advice to the world's largest rail manufacturer in connection with a long-term contract for upgrade and improvement works on rail infrastructure and facilities in a major European capital. Interim claims have been valued at £40 million.
- *Dispute concerning a joint venture for natural gas facilities.* Advising on a dispute arising out of a large, international joint venture project for the construction of a gas separation plant and pipelines in Thailand (including issues under a long-term gas supply contract). The liabilities in issue exceeded US\$ 1 billion, and the relevant agreements provided for disputes to be resolved through arbitration. A settlement was agreed.
- *Advice on petrochemicals project in Kuwait.* Assisting an EPC contractor with issues arising out of the design and construction of a

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petrochemicals project in Kuwait. Howrey provided assistance with the presentation of a complex delay and disruption claim to the local Courts.

- *Dispute concerning process plant in Eastern Europe.* Advising on a claim made against a contractor for losses due to delayed commissioning of a process plant in Hungary. The contract was subject to Swiss law, and provided for arbitration. A favourable commercial settlement was achieved.
- *Claim concerning an international motor sports venue.* Acting for the employer in a dispute concerning defective facilities for an international motor sports venue, against the "design and build" contractor (including claims for the costs of remedial works and loss of profits), involving an adjudication and subsequent Court challenge to the adjudicator's award.
- *Claim for defective building foundations due to ground conditions.* Representing a developer against claims for defective workmanship and design concerning the floor in a warehouse facility, brought by the incumbent tenant under an agreement for construction and lease against the developer and the main contractor. The case turned on geotechnical expert evidence. The expert was evidence led by Howrey was accepted by the tribunal.
- *Defects in floating production storage and offloading vessel.* Involvement in litigation before the Commercial Court concerning defective performance (in respect of technical defects) under a contract for the supply of floating processing facilities in the form of an FPSO.
- *Production Sharing Agreement / EPC Contracts for Algerian project.* Advising on production sharing agreements, drilling and EPC contracts concerning a major LNG project and associated processing facilities in Algeria.
- *Oil drilling operations .* Advising a major international oil company on issues arising under a co-operation agreement in respect of drilling and exploration operations in India.

COURTS & ADJUDICATIVE BODIES

- Supreme Court of England & Wales (Solicitor)

PROFESSIONAL AFFILIATIONS

- Member, Law Society of England and Wales
- Member, Society of Construction Law
- Member, German-British Chamber of Commerce and Industry

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PUBLICATIONS & SPEAKING ENGAGEMENTS

ARTICLES

"Reflections on Expert Evidence (Comparison between US and English law)." *Royal Institute of Chartered Surveyors* Vol. RICS Online Library (April 23, 2007).

LANGUAGES

- German
- French