Legal Update

The DRL v DRK [1] - The Termination of an Arbitration Because Sanctions Make It Impossible for It to Be Progressed

20 February 2026

DRL v DRK is the latest case in Singapore dealing with the fall out from the sanctions imposed on various Russian entities resulting from the invasion of Ukraine in 2022[2]. Due the sanctions, the applicant was not able to make any payment, including to their lawyers and deposits to the arbitration institution.

Ultimately the respondent resorted to Article 32(2)(c) of the Model Law, which provides for the tribunal to order the termination of arbitration proceedings when they become unnecessary or impossible.

The High Court has made it clear how the issue of impossibility in arbitrations should be addressed.

The Arbitration

In May 2020 the applicant commenced an arbitration against the Respondent in Singapore under the SIAC Rules for a Debt. This was about 11 months before the claim became time-barred because of limitation. The respondent denied the debt and brought a counterclaim.

Between February and June 2022, several countries imposed sanctions ("the Sanctions") on the applicant. The applicant accepted that the Sanctions had had the following continuing effects:

a. The applicant's assets touching the financial system of the United States of America and Singapore are frozen.
b. US persons are prohibited from dealing with the applicant.
c. Providers of secure messaging services for financial transactions such as SWIFT are prohibited from providing their services to the applicant.
d. It has become "impossible" for the applicant to make or receive international payments, with the following consequences; it is "impossible" for the applicant to pay to the SIAC any further deposits, it is unable to transfer fees to its lawyers, it is "impossible" for the applicant to pay to the respondent any sums of money that any tribunal may order the applicant to pay, and it is "impossible" for the respondent to receive from the applicant any sums of money that any tribunal may order the applicant to pay under any final award or under any interlocutory or final costs awards.

In July 2022, the respondent applied to the Tribunal for an order requiring the applicant to furnish security for the respondent's costs. On 6 September 2023 the Tribunal ordered that applicant, by 4 October 2023, to furnish security in the sum of $1.3 million, and in the event that the applicant failed to provide the security, for the respondent to apply for termination under Article 32(2)(c) of the Model Law.

The Termination Order

The applicant failed to provide the security. Accordingly, the respondent applied to terminate the arbitration. On 27 September 2024 the Tribunal indicated that it was minded to order the termination as the evidence before the Tribunal established that the Sanctions made it impossible for the

[1] [2026] SGHC 32
[2] Although the parties have been anonymised, it is apparent from the context that the applicant is a sanctioned Russian bank.

arbitration to continue; the applicant had failed to pay the requisite deposits to the SIAC, to furnish the security ordered, to find a third party funder or assignee for its claim who could continue the arbitration despite the Sanctions, and there was no sign that the Sanctions would be lifted or cancelled in the near future.

The Tribunal also found that it was duty-bound to make a termination order if it finds as a fact that "*the continuation of the proceedings has…become… impossible*" within the meaning of Article 32(2)(*c*) of the Model Law, regardless of the prejudice to the claimant, including the extinguishing of its claim because of limitation.

In March 2025 the Tribunal issued an Award, terminating the arbitration. The applicant applied to the High Court in Singapore to set aside the Award

The Applicant's case

The applicant argued that *inter alia,* it had a fundamental right in the arbitration to a determination on the merits of its claim against the respondent.

The Decision

The court accepted that each party to an arbitration has a right to have the tribunal determine their dispute on its merits; but this was not absolute and unqualified. The right was subject to the mandatory provisions of the *lex arbitri,* such as a right to a fair hearing. The court described these mandatory provisions as the "*irreducible core*". The very existence of Article 32(2)(c) means that a right to a hearing on the merits of the dispute was not within this irreducible core.

Indeed, a finding of impossibility under Article 32(2)(*c*) does not merely empower a tribunal to terminate an arbitration without a determination on the merits. As the Tribunal correctly held, that finding obliges it to terminate the arbitration. That is the effect of the word "*shall*" in the *chapeau* of Article 32(2).

Article 32(2)(*c*) turns on – and only on – an objective finding of fact by a tribunal as to the existence of impossibility. If a tribunal makes that finding, Article 32(2)(*c*) expressly mandates a termination order. There is no basis for considering or weighing the prejudice to one or other party. There is also no basis for considering who has caused the impossibility, either in absolute terms (*e.g.*, if the impossibility is caused by neither party) or in relative terms (if the impossibility has been caused more by one party than the other).

The apparent unfairness to claimants as a class arising from Article 32(2)(*c*) leaving a tribunal no scope to consider prejudice is more apparent than real. A claimant has the carriage of the arbitration. It therefore has a duty to progress that arbitration to an award on the merits, and to do so expeditiously.

Accordingly, the court upheld the decision of the Tribunal and dismissed the application to set it aside.

Conclusion

For parties and counsel, the case is a stark reminder of the practical risks posed by sanctions and other external constraints. Claimants, in particular, bear the burden of progressing an arbitration and must consider at an early stage whether funding, payment mechanisms, or alternative

structures are realistically available to sustain the proceedings. Where those obstacles cannot be overcome, the Singapore courts have confirmed that termination—however severe its consequences—may be unavoidable.

More broadly, ***DRL v DRK*** reinforces Singapore's reputation as a jurisdiction that applies the Model Law rigorously and predictably, even in difficult cases. This decision provides certainty to tribunals faced with stalled proceedings and will likely be an important reference point in future disputes arising from sanctions-related disruptions to international arbitration

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