



## PAULINO FAJARDO

PARTNER

[Madrid](#)  
[Latin America Group](#)

Paulino works with clients on international dispute resolution and insurance matters.

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## BACKGROUND

Paulino is dual qualified as a English solicitor and as a Spanish lawyer. An accredited mediator by CEDR, he holds a PhD *cum laude* from *Universidad Pontificia Comillas* (ICADE) and obtained a law degree at Granada University. He developed further studies on English law at the London School of Economics (LSE) and on International Protection of Human Rights at the Basque Country University (UPV). Author of "Cooperation as a Strategy. Mediation of commercial disputes" (Thomson).

Procedural law professor at ICADE, he lectures on arbitration and negotiation, mediation and conflict solution. He collaborates as a visiting professor with other universities, lecturing on Mediation and International Negotiation (Master's Degree in Dynamics of Cooperation, Conflict and Negotiation in International Relations and Diplomacy, Alfonso X el Sabio University), Mediation (Master of International Advocacy, Carlos III University) , Insurance Contract, (Double Master of Access to the Legal Profession and Business Law at the University of Navarra)".

## KEY SERVICES

[Dispute Resolution](#)  
[Commercial Litigation](#)

## KEY SECTORS

[Insurance](#)  
[Energy](#)

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## **EXPERIENCE**

Experienced negotiator and legal strategist, he is conversant with comparative law, different legal systems and the use of ADR. With almost 30 years' of experience, he is a recognised professional in the international financial markets. He acts as an advocate before civil and criminal courts, mediator, arbitrator and counsel to arbitration.

His areas of practice include, offshore and onshore energy (oil & gas, renewables), infrastructure, construction & engineering, banking and financial fraud, political risk, corporate and shareholders disputes, breach of contract, D&O and director's liability, professional indemnity, W&I, BBB, K&RE, transport (aviation, marine, rail) and reinsurance.

Paulino's experience includes advising:

### **Arbitration, Risk Management & ADR**

- SIAC arbitration defending a construction company regarding the unlawful termination of a FIDIC contract governed by Nepalese laws
- UNCITRAL arbitration on the interpretation of an agreement related to the EU Motor Insurance Directives scheme
- Ad hoc arbitration representing a Bermuda reinsurer regarding a cut-off termination clause in a quota-share reinsurance treaty
- a Spanish leading offshore telecommunication company on a contract commitment against a service provider in Latam which is in a situation of insolvency and restructuring

### **Energy, Construction, Engineering and Infrastructure**

- a professional indemnity leading insurer on policy response in connection with the landslide occurred in a dual carriageway bypass road in Australia
- a leading offshore construction company on coverage of defective design of an offshore

installation in the Northern sea and cost consequent thereon

- a set of construction and engineering companies to advise on insurance cover and liability claims arising from the fire in a transport complex and infrastructure in the Middle East
- a hazardous residues' recycling company on a cover dispute arising from a contamination event in Sweden

## **D&O and Financial lines**

- a global Insurance Company in a cover claim brought by a major national company for the damages allegedly caused to a US company in the repurchase of its shares as a consequence of infringing the duty to disclose all the relevant information pertaining to the operation
- former directors of a Spanish bank in a set of claims on different cover issues connected to criminal proceedings following the bank failure
- a strategic sector company in monitoring a criminal action for alleged fraud against officers of a Latam subsidiary in connection with a set of civil actions for breach of contract
- a construction and energy company on the cover of the defence cost and bail bonds in the context of criminal proceedings against former directors

## **Product liability and Recall**

- an automotive supply company in international arbitration arising from the supply of an allegedly defective piece that is incorporated to the steering wheel of certain car models
- a life science company and its liability insurer on a multijurisdictional product liability serial claim in connection with a defective component for the pharmaceutical sector

- liability insurer of a pharmaceutical manufacturer in connection with damages resulting from a defective product recall in the US

## **Reinsurance**

- an underwriting agency on a claim against an Asian reinsurer regarding the interpretation of the cooperation clause in a retrocession slip
- a Mexican reinsurance broker on a potential claim before English courts against a placing broker for fraud
- an insurer in judicial proceedings in Spain concerning the alleged lack of binding authority to underwrite reinsurance by a London underwriting agency
- a European reinsurer on several cover issues related to a facultative reinsurance contract arising from a warehouse fire in Africa

## **Transport and Mass casualty accidents**

- an aeronautical company and its insurers on their defence in the criminal and civil proceedings following a fatal air crash in Madrid
- liability insurers of a railway operator on criminal proceeding following a major train crash, resulting in the death of 80 people and with more than 100 seriously injured
- a steel manufacturer on monitoring of judicial proceedings in France following a train derailment

## **PUBLICATIONS**

### **Books**

- Cooperar como estrategia: Mediación de conflictos empresariales, Ed. Aranzadi-Thomson Reuters (2016)  
[Cooperation as a strategy: Mediation in Commercial Dispute]

## Articles

- "Gestión eficiente de acuerdos: una alternativa al conflicto", Revista CEO  
[Settlement Efficient Management: an alternative to dispute]
- "[Promover una cultura de acuerdo es garantía de sostenibilidad](#)", El Confidencial (2018)  
[Promoting a culture of agreement is a guarantee of sustainability]
- "[Tratar igual a los iguales: de cómo impulsar la mediación a través de la legislación fiscal](#)", Expansión (2018)  
[Treating equals equal: how to promote mediation through tax legislation]
- "Apuntes para incentivar la mediación a través de una reforma de la Ley de Enjuiciamiento Civil", Actualidad Jurídica Aranzadi (2017)  
[Notes to encourage mediation through a reform of the Civil Procedure Act]
- "¿Para qué sirve un abogado? El papel del abogado de empresa en el siglo XXI", Anuario de Mediación (2015)  
[What is a lawyer for? The role of the business lawyer in the 21st century]

## Chapters in Collective Books

- "Extinción de la acción de resarcimiento por daños derivados del transporte aéreo en el

Convenio de Montreal: ¿caducidad o prescripción?", en Anuario Contencioso 2018, Ed. La Ley-Wolter Kluwers (2018)

[Termination of the action for damages resulting from air transport in the Montreal Convention: how should limitation be interpreted under Spanish Law?]

- Cooperar como estrategia- La filosofía de la cultura de paz", en Mediación y Resolución de Conflictos: Técnicas y ámbitos, Ed. Tecnos (2017)  
[Cooperation as a strategy: Philosophy in the culture of peace]
- "Climate-Change Litigation: American Phenomenon or Global Trend?", in Munich Re, Liability for Climate Change? (2010)

## AWARDS

- In 2017, he was recognized by the AMMI National Award for "the best book in mediation".
- In 2018, he was awarded "Diario de Mediación Medal" in recognition of his professional effort on promoting the use of Alternative Dispute Resolution (ADR)
- In the 2019 edition, he was recognized by **Best Lawyers**, as '**Lawyer of the Year**' in the insurance practice in Madrid
- In 2019 and 2020, he was recognized as stand-out lawyer by the "Acritas Stars - independently rated lawyers"
- In 2020, he has been shortlisted in the category of Litigation & Enforcement Lawyer of the Year: Product Liability by LMG Life Sciences Europe awards

## ACCOLADES

His expertise is highlighted by listings in Chambers Europe and Legal500, ranked as Band 1 and Leading Individual for Insurance and Band 3 for Dispute Resolution.

Clients value his "proactive and commercial" nature, expansive network of contacts and ability to taken on large and complex cases.

- Clients hail Paulino Fajardo as "a great expert in the negotiation of insurance policies." One source attests: "His knowledge of the insurance sector is impeccable."  
**Chambers Europe 2020 - Spain (Insurance)**
- Clients value Paulino Fajardo for his "extensive technical knowledge"  
**Chambers Europe 2020 - Spain (Dispute resolution)**
- 'Paulino Fajardo has great analytical and strategic capabilities and is very involved in the case.'  
'Excellent legal skills when dealing with complex international cases in Spain or abroad, either before the Spanish courts or in international arbitration.'  
**EMEA Legal 500 2020 - Spain (Insurance)**
- One interviewee enthusing: "He gives clear advice on the structuring of cases, strongly fulfils his commitments and is able to propose alternative solutions."  
**Chambers Europe 2020 - Spain (Insurance)**
- Paulino Fajardo's creative, always well prepared and has a great demeanor in court. "Clients further note that "his friendly character means that he doesn't antagonize the other side, which facilitates communication and understanding between the parties." He is known for his work on behalf of both insurers and policyholders on Spanish and international insurance claims. He defended MAPFRE and Spanair in civil claims relating to the MD-82 aircraft incident at Madrid airport.  
**Chambers Global 2018 (Spain) - Dispute resolution**
- Paulino Fajardo focuses his practices on the area of contentious insurance. His recent instructions include representing Dragados Offshore in the defence of a claim raised by Hess Denmark over allegedly defective offshore platform designs. One client state: "He is one of the best insurance trial attorneys in Spain."  
**Chambers Global 2017 (Spain) - Dispute resolution**
- Paulino Fajardo heads the team at Herbert Smith Freehills and is consistently named as one of the leading lights in Spanish insurance law. He acts for both the insured and insuring parties in major claims, particularly in the transport sector, and is recommended for his experience and performance in court. Interviewees regard him as "one of the best, without a shadow of a doubt," and clients appreciate that "he has great skill at explaining things."  
**Chambers Europe 2017 (Spain)- Insurance**
- Interviewees appreciate that he "is used to dealing with large and complex cases and can manage the pressure of the parties." "He really knows insurance law in Spain and knows the international markets" "He looks to mediate and to resolve claims".  
**Chamber Europe 2016 (Spain) - Insurance**
- Herbert Smith Freehills LLP's team stands out for its 'fast responses, knowledge of the

sector and quality of lawyers'. Practice head Paulino Fajardo is recommended. Clients include Mapfre, AIG, Markel and Red Eléctrica de España.

***Legal 500 2018 (Spain) - Insurance***

- Herbert Smith Freehills LLP works for policy-holders and insurers alike under the savvy guidance of 'well-reputed expert' Paulino Fajardo.

***Legal 500 2017 (Spain) - Insurance***

- Herbert Smith Freehills LLP's team is led by the 'reputable' Paulino Fajardo, and acts for high-profile clients in complex insurance and reinsurance disputes. Clients include QBE Insurance Limited, ACE European Group, and Red Eléctrica de España.

***Legal 500 2016 (Spain) - Insurance***