



## 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 abogado. 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).

He lectures on Arbitration at Universidad Pontificia Comillas ICAI-ICADE; on Insurance law at Universidad de Navarra and on International Negotiation and Geostrategy at Universidad Alfonso X.

## KEY SERVICES

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

## KEY SECTORS

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

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## EXPERIENCE

Paulino works with clients on dispute resolution and insurance matters. Experienced negotiator and legal strategist, he is conversant with comparative law, different legal systems and the use of ADR. After 25 years' of experience he is a recognised player 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**

- ICC arbitration for a infrastructure company concerning the validity of a "put option" in a shareholders agreement, brought by a French company
- SIAC arbitration defending a construction company regarding the unlawful termination of a FIDIC contract governed by Nepalese laws
- LCIA arbitration proceedings for a renewables company against an Asia based company for breach of contract and warranty redemption
- UNCITRAL arbitration defending a state owned company regarding the interpretation of a UE Directive
- ARIAS arbitration brought by cedant company versus its excess reinsurers claiming for a series of unsettled losses
- Ad hoc arbitration representing a Bermuda reinsurer regarding a cut-off termination clause in a quota-share reinsurance treaty
- a key group of shareholders on the strategic management of their corporate interests against the board of directors

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

- a Korean construction company on the investigations and civil litigation following environmental damages and pollution of a river in Mexico after the rupture of an oil pipeline
- a gas transport company in connection with serial arbitration and litigation following a defective supply damaging several cogeneration plants
- a construction group for catastrophic damages following the collapse of a mining dam reservoir
- an offshore engineering, procurement, and construction (EPC) contractor for defective supply
- a renewable energy company following the devastation of a plant after an hurricane

### **D&O, Bank Fraud, Political Risks**

- defense of directors and cover disputes (D&O) in criminal proceedings in Spain and monitoring similar criminal litigation in South and Central America and certain European jurisdictions
- representing BBB insurers in the cover dispute brought by an European bank concerning fidelity claims emanating from Middle East
- representing a policyholder (trade company) in the litigation brought against 11 Lloyd's Syndicates and 3 insurance companies out of a Political Risk Insurance Programme covering operations in Cuba (sugar warranties)

### **Reinsurance**

- a European reinsurer on several cover issues related to a facultative reinsurance contract arising from a warehouse fire in Africa
- an international captive reinsurer based in Luxemburg on the interpretation of a

Bermuda Form clause

- a reinsurer on cover advice regarding the extent of a "follow the settlement" clause in a CAR/EAR insurance program in Latam\*
- retrocessionaries on a claim brought by the captive insurer of a telecommunication group in Brazil

## **Transport (MAT)**

- an aeronautical company and its insurers on their defence in the criminal and civil proceedings following a fatal air crash in Madrid
- a railway company liability insurers on criminal proceeding following a major train crash in the North of Spain
- a steel manufacturer and its liability insurer on monitoring of judicial proceedings in France following a train derailment caused allegedly for a steel plates wrong stowage

\*This list includes experience prior to joining Herbert Smith Freehills

## **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]

## 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 2019, he was recognized as stand-out lawyer by the "Acritas Stars -independently rated lawyers".

## **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.

- 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***