



## Professor Nicholas Gould

Partner

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Nicholas is an international specialist arbitration, construction and engineering lawyer. A solicitor advocate and chartered surveyor, his dual qualifications provide a layer of expertise that adds a practical level to his work. The IBA's *International Who's Who of Business Lawyers Today*, listed Nicholas as one of the "ten most highly regarded individuals internationally for construction law". Nicholas is included as one of the Global Elite for Construction in *Who's Who Legal: Thought Leaders 2022* as a "titan of the international market" with peers praising him as "an exceptional lawyer and leader, with a large market presence", and described him as "brilliant in his presentation of cases and very persuasive in his arguments". He is ranked highly for International Arbitration in *Chambers & Partners 2022* with clients quoted as saying "he goes out of his way to support us, often at very short notice, and provides clear advice and recommendations."

Nicholas conducts a mix of international dispute resolution and projects work. Nicholas acts for contractors, employers and governments in a wide range of technically complex construction sectors internationally including: energy, infrastructure, rail and metro, communications, industrial, waste, water, desalination, process plant, oil and gas, and petrochemical, as well as defects, collapse and fire safety. Advising on numerous power projects around the world, he has advised in relation to Europe's largest gas combined-cycle power plant, as well as on nuclear (new and old), oil, coal, hydro, offshore wind farm, biomass, solar and innovative ocean current projects and data centres.

Nicholas' dispute resolution experience spans litigation, arbitration, adjudication, DAB/DRB/DAAB, mediation, early neutral evaluation and expert determination. His FIDIC experience is wide ranging including acting as a special adviser to FIDIC in respect of its 2017 edition contracts and in 2021 he was the FIDIC Adjudicator of the Year. Nicholas' contract experience includes NEC, IChemE, JCT, MF/1, LOGIC, bespoke EPC/EPCM and PFI/PPP contracts. Nicholas is frequently selected to work on high value complex projects, including advising BAA in respect of T5 (£4.2 billion), the Louvre in Abu Dhabi, Expo 2020 in Dubai, CERN's nuclear research facility, and the world's most leaning building at Capital Gate, Abu Dhabi.

In the *Legal 500* he is listed in the Hall of Fame for International Arbitration and has been described by clients as "eloquent" and having "excellent advocacy skills". The directory has also recognised him for being "extremely good – he is very convincing during hearings at drilling down the issues to the core".

Nicholas is Visiting Professor at King's College London and a vice president of the ICC's Arbitration Commission (past chairman, Standing Sub-Committee ICC's International Centre for Expertise 2007-14). He is past president of the DRBF and past chairman of the Society of Construction Law. He has been published widely in the field of construction law and dispute resolution.

### **Specialist expertise**

Nicholas' dispute resolution experience includes litigation, arbitration (ICC, LCIA, DIAC, DIFC, SIAC, ICSID, AAA LMAA, CIMAR and ad hoc UNCITRAL), adjudication, DAB/DRB/DAAB, mediation, early neutral evaluation and expert determination. He regularly acts as lead mediator in multiparty, multimillion disputes, conducting more than 100 mediations, and is a CEDR Chambers lead mediator. He is a Registered Legal Practitioner in the UAE and DIFC Dubai Court. Nicholas is a FIDIC certified adjudicator and sits on international dispute boards and as an arbitrator. Currently he chairs the five-member panel of adjudicators for CERN's expansion programme and is a DAB member at the ITER Fusion for Energy project in France.

*Examples of Nicholas' expertise include:*

- new nuclear power plant, UK: advising an international contractor in respect of the contractual framework, risks and obligations;
- hydroelectric plant, Africa: advising on a claim for over 2,500 days' extension of time and related damages in excess of US\$800m under an amended FIDIC Red Book with a myriad of supplemental agreements for a 6,000MW plant. DAB and ICC arbitration;
- solar PV plant, Peru: advising the project sponsor in respect of claims and calling on the contractor's bond;
- power plant, Chile: advising in respect of delays, claims, bonds extensions and settlement;
- nuclear power plant, Finland: advising an international specialist German power plant contractor in respect of a claim relating to pipework installations at a new nuclear power plant. Referring the matter to expert determination and receiving, in the client's words, a "100%" win;
- solar power plant, UAE: advising a consortium partner in respect of an 800MW solar plant under an EPC contract;
- advising a consortium of contractors in respect of a section of the Riyadh Metro, KSA for delays and design issues. FIDIC amended contract with DAB and international arbitration;
- power plant, Riga, Latvia: defending the government against an extension of time and financial claims in a DAB process under a FIDIC contract. Claim was entirely defeated;
- advising a contractor in respect of a series of new data centres in the UK and across Europe. The advice covered the contractual obligations, risks and supply chain provisions;

- nuclear power plant, UK: advising a power plant company in respect of compensation events, delay claims and financial claims under an amended NEC contract in relation to refitting works at an existing nuclear power plant. Advising on the prospect of the claims, time-bar issues and potential settlement strategies;
- Iraq, Basra region: advising an international contractor under an EPC pre-commissioning lump sum turnkey basis gas and oil separation plant (GOSP) with a capacity of 200,000 barrels per stream day (BPSD). Advising on time-bar conditions precedents, and drafting claims for EOTs, design approval delays, constructive variations, prolongation and disruption. Multistage dispute escalation provisions leading to LCIA arbitration, London;
- representing a specialist mechanical and piping contractor for delay, disruption and costs claims on a bulk filling and sterile antibiotic Augmentin plant in the UK. Numerous adjudications under an amended IChemE Yellow Book Subcontract;
- advising an EPC contractor in respect of the largest gas combined-cycle power plant completed in Europe; £1 billion contract sum. See *Alstom Power Ltd v Somi Impianti SRL* [2012] EWHC 2644 (TCC);
- providing contractual and claims advice in respect of a JV agreement and EPC turnkey agreement for a 900MW oil-fired steam power plant and desalination plant. Project cost US\$1.8 billion, with claims circa US\$300 million;
- acting for one of the world's largest specialist power station contractors in respect of a substantial extension of time and prolongation claim under a bespoke EPC contract. Advice in respect of the dispute resolution provision comprising mediation, contractual adjudication and High Court litigation;
- acting for a joint venture contractor in relation to a potential high value (circa £150 million) dispute arising from a UK offshore wind farm project. Advising on various contractual issues, entitlement to extensions of time and associated additional costs as a result of variations and developing overall strategy;
- acting for the National Energy Authority of a government to advise on and defend an ICC arbitration for the construction of a hydroelectric dam in Nepal;
- appointed as mediator for a gas supply concession agreement, in a cross-border dispute of US\$4.8 billion in the Middle East;
- advising in relation to an EPC contract for a liquid to gas plant in Nigeria (LCIA arbitration);
- advising in relation to new and refit pumping stations, related SCADA systems and associated pipelines, including contract drafting, limitation of liability, defects in welding, testing, handover, and professional negligence in relation to defects in design;
- advising in relation to FIDIC Orange DAB proceedings and court injunctions for a waste management plant in the Caribbean;
- advising an airport owner regarding a £4.2 billion airport development in respect of claims under bespoke NEC-based partnering packages for the building management system and related claims;

- highway and bridges, Romania, under ISPA and EU funding of FIDIC Red and Yellow Books and amended contracts. Claims for delay arising from design approvals, variations, land appropriation, archaeological findings, related money claims for prolongation and price escalation in DAB, ICC arbitration, and the Romanian High Court, Appeal Court and Supreme Court;
- advising in relation to a swimming pool roof collapse, PAP for professional negligence and multiparty TCC litigation;
- DIAC arbitration for civil engineering contractor relating to deep sewage pipework and pumping facilities, enforcing award in Dubai;
- acting for the second largest entertainment company in the world, and drafting and advising them in respect of new developments in the UK and around the world. Establishing a suite of construction precedents and negotiating new developments in the UK, as well as roller-coaster rides, sea life centres, cinemas and other projects in various countries. Advising the client in respect of the construction documentation for its successful IPO;
- Canary Wharf development, negotiating construction documentation with trade contractors, agreements for lease, fit-out works for various towers (BP1 Barclays Tower, BP2- BP4, HQ2, HQ3 Cabot Hall and DS7);
- acting for a joint venture contractor in relation to a potential high value (circa £150 million) dispute arising from a UK offshore wind farm project. Advising on various contractual issues, entitlement to extensions of time and associated additional costs as a result of variations and developing overall strategy;
- Nigeria, Delta – advising the contractor in respect of a gas to liquid plant (GTL) under an onshore and offshore contract in relation to variations, delay, and force majeure events. Financial claims varied from typical to challenging. Expert determination, pathological arbitration provisions based on UNCITRAL and requiring joinder. Settled;
- acting for a Korean contractor in respect of offshore cooling pipework to a power plant. Delays and severe weather problems resulted in considerable damage, an insurance claim and then claims relating to design issues, extensions of time and damages claims.

#### Other activities

Nicholas is a Visiting Professor and an Executive Committee Member at the Centre of Construction Law, King's College London. Nicholas regularly lectures at King's College London, and for the ICC, DRBF, FIDIC, Informa at their summer school at Cambridge University, ICE, RICS, NEC and CEDR, together with a variety of in-house and ad hoc lectures. He frequently lectures on webinars, and he has made a live radio appearance on BBC Southern Radio. Nicholas chaired IBC's First Construction Law Web Congress. Currently he is the course director for the new FIDIC & King's College London intensive summer school.

He has been published widely in the field of construction law and dispute resolution, and won a Silver Award at the CIOB Literary Awards in 2000 for his book *Dispute Resolution in the Construction Industry* published by Thomas Telford. The Rt. Hon. Sir Philip Otton described the book as "*the most fascinating publication to come across [his] desk for many a year*".

Nicholas was also lead author of *Mediating Construction Disputes: An Evaluation of Existing Practice* (2010) which received a CEDR award for excellence. The Rt. Hon. Lord Woolf commented in the House of Lords in January 2010 that: *"Mediation is no longer a novelty in the UK. ... Commendably, a solicitor, Nicholas Gould, has now with the assistance of a team of supporters completed research for King's College London ... As I would expect, the survey showed that the process led to a saving of time and cost in a significant number of cases. I warmly congratulate Mr Gould and his team on the empirical data that they have assembled."*

**Nicholas' memberships/positions include:**

- past president and member, Dispute Resolution Board Foundation (since 2003);
- vice president, ICC's Arbitration Commission (since 2008);
- solicitor of the Supreme Court England & Wales (1999) Solicitor-Advocate (2012);
- fellow, Royal Institution of Chartered Surveyors (2000 FRICS, ARICS since 1994);
- member, Chartered Institute of Building (1996 MCIQB, Associate since 1990);
- fellow, Chartered Institute of Arbitrators (FCIArb 2007, MCIArb since 2003, past member, CIArb's Policy Sub-Committee 2010-2016);
- FIDIC certified President's Appointment Adjudicator List (2012);
- certified adjudicator, Royal Institute of British Architects;
- member, International Chamber of Commerce (ICC);
- past chairman, ICC's International Sub-Committee for Expertise (2008-2015);
- member, London Court of International Arbitration (LCIA);
- member, International Bar Association (IBA);
- member, Technology and Construction Solicitor's Association (TeCSA) and TeCSA Adjudicator;
- member, Society of Construction Law (SCL) past Chairman (2006-07);
- member, Adjudication Society (since formation 1999) past chairman (2008-10) of and current case editor since inception (1999);
- lead mediator, Centre for Effective Dispute Resolution (1998);
- freeman, Worshipful Company of Arbitrators (2007);
- member, King's College Construction Law Association (KCCLA);
- past chairman, ICC's ICANN gTLD primary internet address dispute resolution expertise service (2013-2015);
- registered legal consultant, DIFC (registered Arbitrator 2012);
- arbitrator, Cour Europeenne D'Arbitrage, Milano, Italy (2021);
- SCL-Society for Computers and Law, Adjudication Scheme SCLA Tech Law Panel Adjudicator (2020);
- CMA - Croatian Mediation Association (2012);
- honorary member, Croatian Mediation Association (March 2012);
- CEA, Cour Europeenne D'Arbitrage, Milano, Italy - Arbitrator (2021).