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Gordon Nardell QC

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Languages: French (fluent); German (conversational); Italian (conversational)

Gordon specialises in international litigation and arbitration with a focus on claims by and against State bodies, especially in the areas of energy, infrastructure and utilities. Gordon is also known for his advisory and dispute work in international trade and regulated markets including transport, public procurement and financial services.

He has extensive experience of EU, public international law and human rights including data privacy rules. Gordon regularly advises on Brexit issues affecting business and government. He accepts arbitral appointments ad hoc and under the rules of the main institutions. Gordon is a Fellow of the Chartered Institute of Arbitrators and a Centre for Effective Dispute Resolution (CEDR) accredited mediator.

Gordon began his professional career as a commercial litigation solicitor. In the 1990s he practised public international law at the Council of Europe and served as UK Parliamentary Counsel before moving to the Bar. He is able to work in French.

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Publications, talks and lectures

- 'Monetising Claims': [Webinar](#) with PwC Asia on valuing claims for funding and monetisation purposes (December 2020)
- "Steering Clarity on Contractors All-Risks Insurance": presentation at Asian International Arbitration Centre webinar (September 2020)
- '[A Fair Balance? Termination of Intra-EU BITs and the European Convention on Human Rights](#)' (July 2020) (co-author)
- '[Coronavirus, A1P1 and Compensation under the European Convention on Human Rights](#)', Lexis PSL (April 2020) (co-author)
- '[Clearing the COVID-19 logjam: can arbitration rescue stalled trials?](#)' (April 2020) (co-author)
- 'Hard Brexit: Continuity of contracts for cross-border services': presentation at Bar Council seminar 'No-Deal Brexit – Practical Consequences' (January 2019)
- '[Slovakia v Achmea – see you in court](#)' Lexis PSL (April 2018) (co-author)
- 'Brexit and the Energy Charter Treaty': presentation at conference 'The Future of Investment Arbitration in Europe', Association for International Arbitration, Brussels (2018)
- 'Arbitration in the Gulf: What's Happening?': presentation at London Centre for International Law Practice Energy Disputes Conference (2018)
- 'Dispute resolution implications of UK EU withdrawal': speaker at Hong Kong Ministry of Justice Brexit Conference (2017)
- International Energy Law Review: Editorial Board (2016–)

Professional memberships

- Asia International Arbitration Centre: Member of the panel of arbitrators
- Astana International Financial Centre International Arbitration Centre: Inaugural member of the panel of arbitrators
- LMAA: Supporting member
- Bar Council EU Law Committee: Chair (2015–16)
- CIArb: Fellow
- European Circuit of the Bar: Circuit Leader (2012–2014)
- Shanghai International Arbitration Centre (SHIAC): Member of panels of arbitrators and mediators; member of specialist aviation panel

Other bars

- Member of the Dutch Brussels Bar (EU-List).
- Registered Foreign Lawyer, Singapore International Commercial Court

Commercial litigation and International arbitration

- **Institutional and ad hoc arbitration** – appearing as counsel/acting as arbitrator in commercial and investor claims; bringing and defending enforcement, set-aside and annulment proceedings. Appointments accepted ad hoc and under the rules of all the major institutions. Member of list of specialist arbitrators for UK rail Access Disputes Committee.
- **Commercial litigation** – appearing in high-value commercial disputes in England and as co-counsel/shadow counsel in other jurisdictions; claims by and against public sector bodies; professional negligence claims; civil fraud and misrepresentation; sanctions issues; group and class claims. Handling disclosure and privilege issues, anti-suit and freezing injunctions.
- **Energy, natural resources and utilities** – acting a range of disputes about upstream petroleum, renewables and power. Funding, construction and performance of offshore and land-based installations; licensing, concession and JOA/JV disputes; power purchase and repricing; technical disputes about generation and transmission plant; end-of-life and decommissioning; energy transition including contractual issues, asset re-use and novel technologies.
- **Investment treaties and sovereign claims** – disputes under contracts and concessions awarded by government entities; inter-State and investment treaty claims; jurisdiction, enforcement and sovereign immunity issues; judicial review and administrative law. Advice on structuring deals and investments. Claims for expropriation and loss under host State law, EU law and international instruments including the European Convention on Human Rights.
- **Insurance and financial services** – Insurance/reinsurance disputes in the London market and elsewhere; outsourcing and joint ventures in retail banking; fintech disputes; group actions and consumer claims; regulatory disputes.
- **Confidential information** – claims for misuse of private information; licensing/manufacturing agreements in the energy and engineering sectors; data protection issues including GDPR.
- **International transport and carriage of goods** – contract claims about maritime, rail and road transport services; air cargo claims; international trade disputes; environmental impacts of maritime and aviation operations.
- **Infrastructure, engineering and construction** – ship and aircraft construction disputes; claims relating to linear infrastructure; defective plant and equipment; consultancy services and professional negligence; liability on project termination.

- **Procurement and public/private partnerships** – contracting authority duties and procedures; disputes under framework agreements; anti-corruption issues; direct award/extension of contracts; shareholder and equivalent claims between JV partners; EU and public law issues in outsourcing.
- **Private international law and jurisdictional disputes** – intra-EU disputes, including Judgments Regulation/Lugano Convention issues; intra-ASEAN and intra-OHADA claims; resolving appropriate forum and governing law.
- **Competition and market regulation** – anti-trust, service concession, State aid and pricing issues; follow-on damages and claims against regulatory bodies; advising public bodies on legislation and decision-making in regulated markets.
- **ADR** – mediation and conciliation of a range of disputes including commercial, public sector and public international law. Adjudication, dispute board and expert determination cases.

Major cases and instructions:

- *E v. F* (2021): acting for respondent in claim (ICC arbitration clause) for allegedly defective renewable power components
- *G v. H* (2020): acting for oil major in claim (LCIA arbitration clause) under indemnity following asset acquisition
- *J v B* (2020): acting in ongoing air cargo dispute
- *S Bank* (2020): advising on dispute about outsourcing of retail credit services
- *F Energy* (2020): acting for US major in relation to UK transport fuel supplies.
- *U v D Council* (2019): contractual adjudication about insurance obligations under PFI utility contract.
- Data centre service agreements – disputes about power pricing (2019); terms of occupancy (2013).
- *X v Y* – enforcement of Gulf State arbitral award outside limitation period (2018).
- *D Ltd v C* – costs litigation arising out of allegations of professional negligence following a complex corporate M&A transaction (2017).
- Downstream petroleum joint venture dispute between European majors (2017).
- BIT claim against Gulf State – advising on ICSID claim arising out of real estate transactions (2017).
- Infrastructure funding – dispute re. public/private financial arrangements for transport scheme (2017).
- Shipbuilding framework agreement – advising a State on procurement and construction of vessels (2016).
- *A v State B* – prospective Energy Charter Treaty claim against EU Member State (petroleum E&P).
- Institutional arbitration (Asia) – power purchase agreement (award 2016).
- *C v State D* – prospective Energy Charter Treaty claim against EU Member State (offshore renewables).
- ICC Arbitration (Europe) – solar energy projects (award 2016).

- *Merong Mahawangsa v Sharyl Eskay Malaysian Federal Court* (2015) – public policy and infrastructure contract secured through influence-trading.
- Waste management contract – dispute (ad hoc arbitration clause) re validity of incentive payment provisions (2015).
- Bondholder dispute involving Chinese and other parties, Singapore High Court (2014).
- Mediation under the OECD Guidelines for Multinational Enterprises – petroleum exploration in environmentally sensitive African location (2014).
- *R (A) v Chief Constable of C* [2014] 1 WLR 2776 – procurement of services with security implications.
- Multijurisdictional dispute – energy project funding in PRC, Singapore arbitration/London litigation clauses (2014).
- Intra-EU claim for economic torts against State officials – application of Brussels I regulation to cross-border damages claim based on bad faith (2014).
- *The Lloyd's litigation: Poole & others v HM Treasury* (CA) [2007] 2 CLC 727; *Society of Lloyd's v Laws* (CA) [2003] EWCA Civ 1887; *Society of Lloyd's v Jaffray* (CA) [2002] All ER (D) 399.

Other practice areas

- **Environmental law and climate change** – regulatory appeals and enforcement proceedings; due diligence and disclosure; Environmental Impact Assessment of major projects; application of EU biodiversity legislation including the Habitats Directive, Birds Directive and Environmental Liability Directive; waste and pollution law; environmental impacts of shipping, aviation and ports; OSPAR and Bunker Convention issues.
- **Energy markets and regulation** – advisory and dispute work in all aspects of regulation of energy production and supply including decarbonisation obligations, licensing and network governance, grid connection, consenting of power plant and transmission infrastructure; State support schemes; EU energy market legislation; international conventions including the Energy Charter Treaty.
- **EU, competition and Brexit** – Anti-trust, State aid and pricing disputes in the energy, utilities, transport and automotive sectors; *Francovich* and other damages claims against regulatory bodies; Brexit impacts on contract continuity, dispute resolution and market regulation; EU-UK trade rules including trade remedies. Served on various advisory and sector groups including ICC Brexit Advisory Group and BEIS Mutual Market Access Working Group. Vice-Chair of Bar Council of England & Wales Future Relationship Working Group 2016-18.
- **Aviation, maritime and rail** – airspace regulation, air safety and environmental impacts; rail franchising/contracting disputes; maritime cabotage and public service contracts under EU law; drafting and advice on regulatory rules; access and freight transfer disputes including UK ADC and Network Code procedures. Member of UK ADC arbitrators' panel.
- **International human rights law and CSR** – advising and appearing in claims before regional human rights bodies including the European Court of Human Rights; acting in disputes under “soft law” instruments including the UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises; claims under the EU Charter of Fundamental Rights.
- **Regulatory investigations** – advising on and conducting investigations in a range of areas including anti-corruption, environmental protection, sanctions and supply chain duties. Handling self-reporting, privilege and disclosure issues, and interface with criminal and civil proceedings.
- **Privacy and data protection** – civil claims and regulatory disputes about confidential information, UK/EU data protection law, surveillance and interception. Advising on extraterritorial effects of GDPR and mechanisms for cross-border data transfers.
- **Judicial review and constitutional law** - appearing in judicial review and administrative proceedings in the UK and EU; advising on regulatory and public law issues across Europe and Asia; legislative competence and procedure, enforcement of treaty obligations in domestic law. Handling public participation, bias and other issues in regulatory decision-making.
- **Parliamentary drafting and handling** - one of a small number of practising barristers undertaking specialist legislative drafting and advisory work in the UK, EU and Commonwealth. Advising trade organisations, governmental bodies and NGOs on policy and legislative proposals. Frequently instructed in litigation and arbitration raising novel or difficult questions of statutory interpretation.

Major cases and Instructions:

- Brexit: advising claimant on validity of defendant's "non-admitted" liability insurance following end of transition
- Exercise of powers under Constitution of Malaysia - advising in judicial review proceedings (2020).
- *R (Lasham Gliding Society) v. Civil Aviation Authority* [2019] EWHC 2118 (Admin): acted for CAA successfully resisting challenge to airspace change approval.
- UKCS offshore asset transaction: advising on decommissioning liability of funder/purchaser (2019).
- Appointed to undertake investigation of bribery allegations against senior official of a political party (2019).
- *R (ERP) v Secretary of State for Business, Energy and Industrial Strategy*, English High Court – challenge to alteration of GB energy capacity payments regime (2018).
- *RES UK and Ireland Ltd.'s Application for Judicial Review* [2018] NIQB 16, Belfast High Court – successful challenge to refusal of onshore wind scheme consent on environmental grounds.
- Installation straddling multinational territorial sea and EEZ – advising on consenting and Law of the Sea issues (2017).
- UK Renewables Obligation Scheme – advising on impact of early closure of scheme on onshore renewables projects (2016).
- Military hardware – advising on EU procurement and State aid issues in relation to long-term contracts for high-value matériel (2016).
- Scottish island ferry services – advising on procurement and State aid issues under the EU Maritime Cabotage Regulation (2015).
- EU Fourth Rail Package – advising rail industry players on draft Governance Directive and Passenger Service Operators Regulation; contributing to expert round table on the proposals (2015).
- *R (RMT, TSSA and ASLEF) v Secretary of State for Transport* (2014) – award of rail contracts without public tenders – compatibility with EU Rail Regulation (EC) 1370/2007.
- *R (Walker) v Secretary of State for Energy and Climate Change* [2013] EWHC 2048 – approval of reactor type under Euratom Basic Safety Directive.
- *Nolan Transport v Secretary of State* [2012] UKUT 221 (AAC) – carriage of goods by road – cabotage rules under Directive 92/106/EEC.
- *R (Akester) v DEFRA and Wightlink Ltd* [2010] Env LR 33 – erosion to protected habitat arising from estuarine shipping.
- *Liberty and others v UK* (2008) 48 EHRR 1, ECtHR – telecommunications – Article 8 compatibility of powers to intercept international calls.
- *R (Jackson) v Attorney-General (HL)* [2006] 1 AC 262 - validity of legislation enacted under Parliament Acts 1911-1949.
- *R (Stone) v South East Coast Strategic Health Authority (QBD)* [2006] EWHC 1668 (Admin) – Data Protection Directive issues concerning publication of medical information as part of inquiry report.
- *Plümecke and others v Germany, ECtHR* (2006) – ex-DDR expropriation claims.

- *R (West) v Society of Lloyd's* [2004] EWCA Civ 506 – whether “private” regulator a public authority under Human Rights Act 1998.
- *R (Alconbury Developments) v SSETR (HL)* [2001] 2 WLR 1389 – leading UK case on compatibility of ministerial decision-making with ECHR Article 6.
- UK and EU legislative proposals: UK Bills relating to renewable energy development, civil justice reform, compulsory purchase compensation, collective and individual employment rights, regulation of rental properties, hunting with dogs; Coronavirus Act 2020. EU Fourth Rail Package (2015); proposals to amend Groundwater Directives.
- Pro bono assistance for NGOs promoting UK/devolved legislation on modern slavery, young voter registration, domestic abuse, victims of overseas terror incidents, modernisation of abortion law. Served on Non-Executive Bill Drafting Panel of Scottish Parliament and Falkland Island panel of Remote Legislative Drafters.

Recommendations

“He can see the arguments instantaneously” [Chambers UK Bar 2021](#)

“Very good with clients, extremely thorough, has a good mastery of the detail and is an accomplished advocate”; “Offers a mix of seniority, pragmatism and user-friendliness” [Chambers UK Bar 2020](#)

“A decisive and accomplished QC”; “A good advocate who knows how to treat judges. He has a very warm personality and is good with clients” [Chambers UK Bar 2019](#)