

Arbitration & Panama's Public-Private Partnerships: A New Frontier

What Is a Public-Private Partnership in Panama?

Since 2019, Panama has had a dedicated legal framework for public-private partnerships ("PPPs"). Law 93 of 2019 encourages private investment through long-term contracts between public entities and the private sector for the development and maintenance of public infrastructure and services.

Under this framework, PPP contracts share objectives and risks between the public and private sectors. The private contractor assumes the financing, construction, operation, and maintenance of public assets, with remuneration tied to compliance with contractually defined service levels. PPP projects must have a minimum value of USD 15 million and align with the Government's Strategic Plan.

Dispute Resolution Under the PPP Law

Panama's legal framework establishes a multi-tiered dispute resolution framework that is mandatory for all PPP contracts.

1. Direct negotiation. Panamanian law mandates a preliminary direct negotiation stage, conducted in good faith within fifteen calendar days (extendable by mutual agreement), before parties may escalate any dispute.

2. Technical panel. If direct negotiation fails, the parties may submit technical or economic disputes to a non-jurisdictional technical panel. The panel is composed of two lawyers, two engineers, and one financial specialist, all with recognized expertise in infrastructure concessions. The panel must issue a reasoned, non-binding recommendation within thirty calendar days (extendable once), which may serve as evidentiary reference for the arbitral tribunal.

3. Arbitration. PPP contracts must include arbitration clauses. If the direct negotiation stage does not produce a settlement, the parties may bypass the technical panel entirely and refer their disputes directly to an arbitral tribunal. The arbitral tribunal must apply Panamanian law, and the seat of arbitration must be Panama City.

A critical practical detail: initiating any dispute resolution procedure does not suspend the contractor's obligation to comply with measures ordered by the public entity. If the contractor ultimately prevails, it is entitled to contractual compensation.

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Challenges and Opportunities

Although Panama's PPP Law dates back to 2019, only two contracts have been awarded to date: the first for the Rehabilitation, Improvement and Performance-Based Maintenance of the Eastern Pan American Highway (January 2024) and the second for the Western Pan American Highway (January 2026). This represents a very early stage of what could become a broader universe of contracts under this framework, considering that Panama has a robust PPP pipeline that includes another highway, correctional facilities, and several social infrastructure projects under evaluation.

As these contracts begin to materialize, it will be interesting to observe the trends that emerge: which arbitration clauses are adopted and, consequently, what types of disputes arise. Given the limited number of contracts in place, we are also at an early stage regarding the universe of disputes that may eventually unfold in this sector.

It will also be interesting to see if Panama adopts an emerging trend in Latin America: referring disputes to the Paris International Arbitration Chamber ("CAIP"), whose rules require claimants to advance full arbitration fees—making it particularly attractive to States, which are typically respondents rather than claimants.

In any event, it will be interesting to see what particularities emerge as PPP disputes in Panama begin to unfold.

IN THE FIRM

• Claudio De Castro in Paris

In September, our partner Claudio De Castro was a speaker at the LATAP EU Fourth Annual Conference on Latin American International Arbitration, hosted at White & Case's offices in Paris.

Claudio participated in the panel *"The Impact of Global Geopolitical Shifts on International Arbitration in Latin America,"* where he shared his first-hand perspective from Panama on the evolving landscape of arbitration in the region. Among the key themes he addressed were shifts in treaty planning and investor behavior, the seat of arbitration increasingly becoming a geopolitical decision, and the rise in disputes tied to crypto and digital assets as well as tech supply chains.

• Fernando Aued in New York

Our partner Fernando Aued joined the international arbitration community in New York for three days of learning, discussion, and professional connection, culminating in the 21st ICC New York Conference on International Arbitration, held on September 25, 2026, at 583 Park Avenue in New York. This flagship annual event, organized by the International Chamber of Commerce (ICC), is one of the most prominent gatherings in the international arbitration calendar in North America, bringing together arbitrators, mediators, corporate counsel, lawyers, and business professionals for a full day of high-level networking and insights.

Fernando's participation reflects our firm's commitment to staying at the forefront of developments in international arbitration practice.

• Mariel Nuñez in Bogotá

Looking ahead, our associate Mariel Núñez will participate in the ICC-FIDIC Conference on International Construction Contracts and Dispute Resolution, to be held on October 15–16, 2026, at the Bogotá Chamber of Commerce, Colombia.

This annual conference is a premier event for professionals working with FIDIC contracts across the international construction and infrastructure sector.

Mariel's participation highlights our department's growing engagement with construction arbitration and infrastructure disputes in Latin America.

• Diego Marin in Mexico City

Recently, our associate Diego Marin participated in the FK Academy, an intensive training program organized by FK Economics, the first Ibero-American economic consulting firm specialized in litigation and arbitration in the region.

Over the course of the program, participants receive hands-on instruction in basic concepts of microeconomics, finance, and statistics, as well as sessions on the calculation of consequential damages and lost profits, loss of chance, and business valuation methods.

Diego's participation in this program underscores the importance our team places on multidisciplinary training.

