

Partner, London

International Litigation and Arbitration



T: 44.20.7519.7288
david.kavanagh@skadden.com

Education

College of Law, Guildford, 1989

B.A. (Hons), University of Durham,
1988

Bar Admissions

King's Counsel

Solicitor Advocate, England & Wales

Associations

London Court of International
Arbitration

International Bar Association

David Kavanagh KC is head of Skadden's Europe International Litigation and Arbitration Group, advising on major cases around the world. Mr. Kavanagh has been recognized in *Chambers Global*, *Chambers Europe* and *Chambers UK*, and also has been named to *Best Lawyers in the UK*. In 2021, Mr. Kavanagh was named an International Arbitration MVP by *Law360* following his success in several major trials where he acted as lead advocate. *Law360* also named Skadden as one of its Practice Groups of the Year for International Arbitration in 2021, and Mr. Kavanagh led the Skadden team named International Arbitration Team of the Year at the 2021 *Legal Business Awards*. Since joining the firm, under Mr. Kavanagh's leadership of the practice Skadden has been ranked every year in Tier 1 for International Arbitration by both *Chambers* and *The Legal 500*. He also was named to *The Legal 500's* inaugural U.K. Private Practice Arbitration Powerlist in 2022.

Mr. Kavanagh acts on some of the world's largest and most high-profile bet-the-company cases. These include matters in a vast range of sectors, including telecoms, airlines, satellites, petrochemicals, oil and gas, mining, cryptocurrency and real estate. He also has acted on several major investment treaty disputes for governments and investors. Additionally, he has extensive experience in international finance litigation, and his clients include major investment banks and hedge funds, which he regularly represents in High Court litigation. Mr. Kavanagh also acts as lead counsel in arbitrations, which have been seated in London, Singapore, Hong Kong, Paris, Geneva, Zurich, Delhi, Stockholm, the Hague, Netherlands and Vienna. He has extensive experience in managing multijurisdictional court actions in the Caribbean and other offshore jurisdictions. In addition, Mr. Kavanagh regularly advises companies and financial institutions on regulatory matters and civil/criminal investigations including advice under the U.K. Bribery Act, the U.S. Foreign Corrupt Practices Act and international sanctions. He also counsels on data protection and privacy issues.

Representative matters include, among others:

- acting for Vodafone International Holdings B.V. in its landmark victory against the Republic of India under the Netherlands-India bilateral investment treaty. In its award, an UNCITRAL tribunal held that India's attempt to impose a \$5.5 billion liability onto Vodafone and its Indian subsidiary — through retroactive withholding taxes, interest and penalties — was in breach of international law. For its success in this matter, Skadden won the International Arbitration Team of the Year Award at the 2021 *Legal Business Awards*;
- acting for Mr. Rakesh Gangwal in the successful defence of an LCIA India arbitration seated in Delhi brought by Mr. Rahul Bhatia, his co-promotor in India's largest airline Indigo, arising from a dispute concerning the shareholders agreement for the company;
- acting successfully for the Hellenic Republic's Privatization Fund in the successful defence of an LCIA arbitration brought by private equity investors arising from the privatization of Greece's state lottery;
- acting for one of the world's leading tech communications companies in London arbitrations concerning an investment in new blockchain technology and cryptocurrency platforms;
- advising one of the world's largest financial institutions on proceedings before regulators arising out of U.S. and EU sanctions issues;

- acting successfully in an LCIA arbitration under a shareholder agreement concerning the distribution of dividends;
- successfully acting for NTT DOCOMO, Japan's largest telecommunications company, in an LCIA arbitration against Tata Sons, the holding company of Tata Group under an Indian law shareholders agreement. An LCIA tribunal awarded NTT DOCOMO US\$1.2 billion in damages. The award was enforced successfully in India and was paid in full together with interest and costs;
- acting successfully for Anadarko Petroleum in a US\$150 million ICC arbitration with Brightoil concerning liabilities under indemnities arising from the Chinese tax law treatment of its disposition of licensors of certain Chinese oil fields;
- successfully acting for the owners of Devas Multimedia Private Limited in a US\$1.6 billion investment dispute with the Republic of India, under the Mauritius-India Bilateral Investment Treaty. The dispute concerned the cancellation of a contract regarding the provision by Devas of satellite and terrestrial audiovisual, broadband and mobile services in India;
- acting for Emaar Properties, one of the largest property groups based in the Middle East, in an ICC arbitration in respect of one of the largest investments made in the Indian commercial property sector;
- acting successfully for the Chatterjee group in its ICC arbitration against the State of West Bengal in respect of the ownership and operation of the Haldia petrochemical plant;
- acting for Ukrainian businessman Mr. Gennadiy Bogolyubov in:
 - the successful strike-out of civil fraud claim proceedings in the English High Court (with associated worldwide freezing orders) brought by oil giant Tatneft; and
 - the dismissal on jurisdictional grounds of High Court proceedings brought by Mr. Vadim Shulman;
- acting for a consortium of venture partners in a shareholder dispute with BP. The dispute involved obtaining an emergency injunction blocking the deal in the High Court and subsequently obtaining an award from an arbitration tribunal seated in Stockholm that the deal was prohibited under the parties' shareholders agreement. Mr. Kavanagh's team was awarded International Arbitration Team of the Year at the *Legal Business Awards*, and both *Global Arbitration Review* and the *Financial Times*' Innovative Lawyers Report recognised Skadden for its innovative role in this representation; and
- acting for Anheuser-Busch in its successful defence of High Court proceedings brought by CVC Capital Partners in connection with the sale of its eastern European brewing business.

Publications

"UK Supreme Court Rules in Favour of Directors in Seminal Case on Directors' Duties in 'Zone of Insolvency,'" *Skadden, Arps, Slate, Meagher & Flom LLP*, October 6, 2022

"Coronavirus/COVID-19: Implications for Commercial and Financial Contracts," *Skadden, Arps, Slate, Meagher & Flom LLP*, February 26, 2020

"GDPR Collective Civil Claims Present Potential for Reputational Risk and 'Ruinous' Damages," *Skadden, Arps, Slate, Meagher & Flom LLP*, February 7, 2019

"Investment Trends in India," *Skadden, Arps, Slate, Meagher & Flom LLP*, July 12, 2017

"The Risks Associated With Worldwide Freezing Orders," *Skadden, Arps, Slate, Meagher & Flom LLP*, April 24, 2017

"UK Serves Notice of Withdrawal From the EU, Triggering Two-Year Negotiation Period," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 29, 2017

"UK Prime Minister Outlines Objectives for Exiting the EU," *Skadden, Arps, Slate, Meagher & Flom LLP*, January 20, 2017

"Insights: Brexit," *Skadden, Arps, Slate, Meagher & Flom LLP*, June 28, 2016

"Cross-Border Investigations Update," *Skadden, Arps, Slate, Meagher & Flom LLP*, May 15, 2015

"Cross-Border Investigations Update," *Skadden, Arps, Slate, Meagher & Flom LLP*, October 2014

"The Increasing Appeal and Novel Use of Bilateral Investment Treaties," *Skadden, Arps, Slate, Meagher & Flom LLP*, April 29, 2013

"UK's Department of Business, Innovation and Skills Proceeds with Private Competition Action Reforms," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 27, 2013

"Competition Authorities' Growing Support of Damages Actions: A Delicate Balance," *Skadden, Arps, Slate, Meagher & Flom LLP*, February 20, 2012

"Disclosure Question Ripples Both Sides of the Pond," *Law360*, January 10, 2012

"National Grid: Disclosure of EC Leniency Materials at Stake," *Skadden, Arps, Slate, Meagher & Flom LLP*, November 29, 2011

"New ICSID Annulment Decision Exposes Possible Gap in United States Investment Treaty Protection," *Skadden, Arps, Slate, Meagher & Flom LLP*, July 19, 2010

"New Arbitral Ruling in Yukos Case Exposes Possible Gaps in Bilateral Investment Treaty (BIT) Coverage for Managed Investment Funds; Important Lessons for Funds Investing in Emerging Markets or Volatile Countries," *Russia/Eurasia Executive Guide*, June 2009