

Kyrgyzstan fights treaty claim over tax measures

[Cosmo Sanderson](#)

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The White House presidential office building in Bishkek, Kyrgyzstan (Credit: iStock/mtcurado)

UK arbitrator **John Beechey** is chairing a treaty case at the Permanent Court of Arbitration brought against Kyrgyzstan by a Netherlands-based telecoms multinational over taxation measures, it has emerged – while the state may soon face a separate claim from an imprisoned Russian businessman.

Beechey, a former president of the ICC International Court of Arbitration, is chairing the case, which was brought under UNCITRAL rules by two subsidiaries of Veon – the telecoms group formerly known as Vimpelcom.

The claimants have appointed another UK arbitrator, **Julian Lew QC** of 20 Essex Street, while Kyrgyzstan's nominee is Australian **Gavan Griffith QC** of Essex Court Chambers.

Veon's Swiss subsidiary VIP Kyrgyzstan Holding AG and its Cypriot-registered affiliate Menacrest filed the claim last year under the Switzerland-Kyrgyzstan bilateral investment treaty and Kyrgyzstan's investment law.

The claimants are represented by Simmons & Simmons and Gibson Dunn & Crutcher, while Kyrgyzstan is using its regular counsel team of King & Wood Mallesons and Bishkek-based firm Satarov Askarov & Partners.

While details of the dispute are scarce, it reportedly relates to a tax assessment imposed on Kyrgyz-registered mobile operator Sky Mobile, which holds licences to operate throughout Kyrgyzstan.

Veon, through Menacrest, has owned a majority interest in Sky Mobile since 2010. Kazakh businessman Bulat Utemuratov is said to own the minority stake in the operator.

Meanwhile, Kyrgyz and Russian media reports suggest that Kyrgyzstan may soon face another treaty claim brought on behalf of Russian businessman Sergei Fishchenko, the co-founder of a meat trading company operating in Bishkek.

In January, Fishchenko was placed in pre-trial detention after being accused of attempted fraud. His family are said to be considering bringing a claim under the 2008 Agreement on Promotion and Reciprocal Protection of Investments in the Member States of the Eurasian Economic Community.

The family has retained Withers in London to examine the possibility of such a claim.

Another treaty claim Kyrgyzstan is facing from Russian-owned company Penwell Business Limited is scheduled for a hearing in November before an UNCITRAL tribunal chaired by **Klaus Sachs** of Germany. He is joined by French co-arbitrators **Pierre Mayer** and **Brigitte Stern**, who were appointed by Penwell and Kyrgyzstan respectively.

Penwell [filed](#) its US\$200 million claim in 2017 over its investment in a nationalised mobile operator that had been mired in multiple fraud and corruption scandals. Penwell is represented by Hogan Lovells.

On 7 August, Canadian gold mining company Centerra Gold [announced](#) it was "moving to terminate" its UNCITRAL claim against Kyrgyzstan at the Permanent Court of Arbitration after the parties fulfilled the terms of a settlement agreement.

King & Wood Mallesons and Satarov Askarov & Partners have also been advising Kyrgyzstan in the Penwell and Centerra Gold arbitrations.

SkyMobile v Kyrgyzstan

Tribunal

- **John Beechey** (UK) (chair)
- **Julian Lew QC** (UK) (appointed by SkyMobile)
- **Gavan Griffith QC** (Australia) (appointed by Kyrgyzstan)

Counsel to SkyMobile

- Simmons & Simmons

Partner **Stuart Dutson** in London

- Gibson Dunn & Crutcher

Counsel to Kyrgyzstan

- King & Wood Mallesons

Partner **Andrei Yakovlev** in Dubai

- Satarov Askarov & Partners

Partners **Ulan Satarov** and **Anvar Askarov** in Bishkek