

BOUGARTCHEV MOYNE ASSOCIÉS: INTERNATIONAL CRIMINAL DEFENCE

The creation of the Bougartchev Moyne Associés law firm in January 2017 was motivated by the need to accompany companies, financial institutions and their officers and directors in business-related litigation, whether criminal, regulatory or commercial in nature, and in particular those cases having an international facet. This positioning rapidly led the team to develop its capabilities in matters of compliance, internal enquiries and due diligence, to deal with the need to limit litigation risks.



THE TWO FOUNDING PARTNERS, KIRIL BOUGARTCHEV AND EMMANUEL MOYNE, TOGETHER WITH THEIR FUTURE PARTNER GEOFFROY GOUBIN, SURROUNDED BY THEIR TEAM OF ASSOCIATES IN DECEMBER 2020

Kiril Bougartchev and Emmanuel Moyne practise an art that is as intellectual as it is physical. The two barristers are only just back from several weeks of hearings in an international bribery case when they allow themselves a short break to draw up the third review of their activity since going into partnership in their own firm. The two founders throw themselves into the defence of their clients as if they were personally concerned. And they bring with them a group of young associates

that are just as passionate about their jobs and from whose ranks their new partner as of January 1st 2021, Geoffroy Goubin, has come. Bougartchev Moyne Associés is only just about to mark their fourth anniversary, but the specialized boutique has already become a law firm of reference among those specializing in litigation, notably in white collar criminal law. The partners' expertise is recognised in complex cases, particularly those with an international aspect.

Independence, a necessity

When he set up shop with his right-hand man, Emmanuel Moyne, in January 2017, the criminal lawyer Kiril Bougartchev wanted to leave conflicts of interest behind him and ensure the deployment of a practice articulated around cross-border cases. As the lawyer explains, although the motivation for his leaving Gide — after seventeen years — for a Magic Circle firm in 2007 was to develop a solid international practice in international criminal law,



the subject never became sufficiently “mainstream”. Independence therefore appeared as a necessity to provide for the criminal defence of companies, financial institutions and their officers and directors facing investigations in France and abroad. Starting out with a staff of twelve, the boutique firm grew quickly to twenty around the two founders, their young partner Geoffroy Goubin and their eight associates.

And the team is continuing to grow: “At this rate, we should make thirty in five years”, anticipates Kiril Bougartchev.

Without waiting for this milestone to be attained, Bougartchev Moyne Associés works on large cases. There is no shortage of references. The so-called “Karachi” case has particularly occupied the team over the last few months.

The political and financial aspects of this case take aim at kickbacks in the context of arms contracts with Saudi Arabia and Pakistan, which the prosecution suspects of having fed the campaign coffers of Édouard Balladur. Emmanuel Moyne and Kiril Bougartchev represent the international branch of *Direction des constructions navales* (DCNI), wholly-owned by the State and the civil law complainants in this case. A highly mediated case on which the two partners have worked relentlessly, just as Kiril Bougartchev is putting a lot of time into the case of a former UBS executive. The firm also defends public personalities: Kiril Bougartchev has notably been briefed by Thierry Solère in the Abdeslam case, then by Jean-Vincent Placé. Emmanuel Moyne represents the only daughter of the king of Saudi Arabia, prosecuted for acts of violence committed by one of her bodyguards in Paris in 2016.

Successes and courtroom victories

These cases often lead to genuine courtroom successes. This happens when the team accompanies the victims of crimes: several insurance companies have called on Bougartchev Moyne Associés, due to fraud by the executive of a chain of opticians, embezzlement by former employees or fraud by a broker... But victories have also been snatched in defence, such as obtaining

an acquittal for the children of the former Prime Minister prosecuted for the alleged receiving of misappropriated public funds, a general acquittal in Marseille in the Eurazeo case, obtaining the dismissal for inadmissibility of the prosecution brought against one of the top worldwide car manufacturers for receiving the proceeds of abuse of trust, or by having a request for a preliminary ruling made to the European Court of Justice, on the legality of European arrest warrants issued by France.

After having concluded the first French plea bargaining agreements (CRPCs) for the crime of laundering the proceeds of tax evasion – a negotiation that the national prosecution department for financial crimes (*Parquet National Financier*) described as “historic” -

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Bougartchev and Moyne are working on the negotiation of deferred prosecution agreements (CJIPs) where the situation so allows. “It is often a matter of luck to be able to avoid getting a criminal record”, comments Kiril Bougartchev, who considers that this new form of negotiated justice should extend to all white collar crimes, before adding that the amounts of fines proposed by the national prosecution department for financial crimes are often much too high to be an incitement, all the more since the existence of a compliance programme is not enough to reduce them significantly. The lawyer regrets the lack of a “points-based” system like there is in the United States, judging the calculation of the fine to be too empirical. “Before considering a deferred prosecution agreement, we carry out an investigation and assess the chances of winning”, adds Emmanuel Moyne.

Multiple activities

Commercial litigation represents 20% of the firm’s turnover. Post-merger disputes (fraud, liability guarantees etc.), disputes between shareholders, the dismissal of officers, unfair competition, bankruptcy litigation, loss of opportunities... even though hostile takeovers may sometimes seem to be a thing of the past, commercial law has always maintained its load of litigation. Compliance, internal enquiries and regulatory disputes also contribute to the development of the firm’s business. These fields, which give rise to some thirty new cases per year, also represent some 20% of the firm’s business (AMF, ACPR and AFA). For example, the team is currently working with a dozen industrial groups belonging to varied sectors for the purpose of putting the eight pillars of the Sapin 2 Law in place, in France and abroad, and to prepare for possible inspections. To date, two AFA investigations have been carried out with the firm’s clients, with both of them being cleared of wrongdoing.

The team also helps businesses define their internal enquiry guides and contributes to a working group on the subject within the French national bars council (CNB). “We have been chosen as experts by the lawyers in ICC arbitration, or as expert witnesses in New York on the request of American colleagues”, specifies Kiril Bougartchev. As complement to the compliance programmes, the firm participates in due diligences for the acquisition of international companies, in liaison with its correspondent firms abroad.

The firm also often works with international firms and with independent firms specialising in litigation. “Some 85% of our client-matters have a cross border element”, comments Emmanuel Moyne.

“We therefore manage judicial or regulatory procedures, sometimes both, in all countries of the world.” Since its creation, the firm has intervened in 51 jurisdictions. “We have never travelled so much!”, enthuse the founders, who estimate that more than 80% of client-matters are directed to the firm by French or foreign lawyers, who are the firm’s top referrers. ■