

WWL

Thought Leaders France 2021



Kiril Bougartchev

A professional portrait of Kiril Bougartchev, a middle-aged man with short, wavy grey hair and light-colored eyes. He is wearing a dark blue pinstriped suit jacket over a white shirt and a dark blue tie. He is looking directly at the camera with a slight smile. His hands are clasped in front of him, and he is wearing a watch on his left wrist and a ring on his right hand.

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Biography

With more than 30 years of experience, Kiril Bougartchev has a market-leading reputation in fraud/white-collar crime. He is also involved in civil, commercial and regulatory disputes. His areas of expertise include notably the energy, aerospace, defence, real estate, pharmaceutical, IT, retail and luxury sectors, as well as the insurance and banking industries. Kiril also advises clients in the implementation of efficient anti-corruption programmes and assists them in connection with the controls undertaken by the French Anti-Corruption Agency.

Business Crime Defence
& Investigations

Describe your career to date.

I started my career in 1988 as an auditor at Arthur Andersen. A year later, after my final internship at Jean Veil et Associés, I joined Gide Loyrette Nouel, where I became partner in 1999 in the litigation and white-collar crime department. In 2007, I joined Linklaters LLP, where I was made co-head of the dispute resolution practice in Paris and facilitator of the Linklaters global white-collar crime group. In the French market, I was the first to create a white-collar crime department in an international law firm. In 2017, I felt I was ready to set up my own firm. With my colleague Emmanuel Moyne, we created a specialist firm dedicated to litigation: Bougartchev Moyne Associés AARPI.

What did you find most challenging about entering business crime defence practice?

From the very beginning of my career, I found business crime defence practice quite fascinating. Firstly, the cases that we have to deal with are very complex matters, often combining numbers and law; it is therefore essential to master these two aspects to define the most efficient strategy. Besides, the stakes of such cases have become colossal, in monetary terms but also for our clients' image. Moreover, and contrary to what some people might think, defending companies, banks or financial institutions does not exclude the possibility of very high stakes on a human level. Finally, the cases that we work on systematically have an international dimension, which is particularly enriching and challenging.

To what extent is the increasingly virtual nature of investigations in a covid-19 landscape making for a more efficient process? In what aspects is it falling short?

Companies' ability to conduct investigations is currently being undermined by the covid-19 context. Physical distancing measures as well as remote working obviously make things more difficult, notably when investigators need to interview witnesses. A video interview is not comparable to a face-to-face interview. Without going into details, I would say that it is crucial for companies not to stop investigations, and that we

already work alongside our clients to implement new policies that will allow them to conduct efficient investigations in this unprecedented environment.

What new types of fraud are you seeing emerge and develop during the covid-19 pandemic?

At this stage, we do not have to deal with new types of fraud, but rather classic fraud schemes for which the covid-19 context is a fertile ground. I could mention phishing (false emails from national or global health authorities aiming to obtain victims' personal data or payment details), telephone frauds (fraudsters pretending to be employees of an hospital and asking the victim to pay the medical treatment of a relative allegedly infected by the virus) or fake shops and websites (people ordering surgical masks or other medical supplies but never receiving it). With respect to companies more specifically, the risk of fraud will necessarily increase if internal controls are decreasing. They will notably face asset misappropriation (invoices paid without usual checking and approvals, misuse/theft of data etc.) or the use of third parties which are not fully checked (collusion between malicious third parties and employees, employees paying bribes on behalf of the company, etc.). That is why we tell our clients that it is essential to maintain the highest degree of controls and compliance and, if need be, to be able to conduct efficient investigations.

How can clients ensure they are prepared to meet high expectations from regulators concerning operational resilience and robust compliance programmes in firms where remote working is prevalent?

It is true that remote working could facilitate frauds and generate in parallel a lack of internal control. However, we, as lawyers, are here to help our clients to adapt to these new ways of working and to strengthen their compliance programmes accordingly. Our law firm has enhanced its crisis management infrastructure, particularly in the area of IT, and has been able to offer this service to several of its clients, especially to enable them to meet their regulatory obligations during this time of crisis (holding mandatory virtual high-level meetings).

Is an increasing criminalisation of corporate wrongdoing the best way to prevent future white-collar crime?

In France, numerous commentators had been calling for a decriminalisation of some offences that they considered detrimental to the business. It is clearly the opposite stance that has prevailed, with a multiplication of the offences related to business practice, a strengthening of prosecution authorities and French courts becoming more and more severe in this field (increasing recourse to non-suspended prison sentences and huge financial penalties). It is true that this could have a deterrent effect on offenders, but I still consider that the emphasis should always be put on prevention and education. In this respect, the French Anti-Corruption Agency has set up a real support to companies when they deploy or strengthen their compliance programmes. In my view, this is highly appreciable.

What skills and traits would you encourage the next generation of business crime defence lawyers to develop?

I would tell them that they should be dedicated and hard workers.

I would also tell them that they should not just be their clients' lawyers: they should be their clients' partners. In other words, it is essential for them to acquire a full understanding of their clients, their activities, their organisation and their teams, as well as to become familiar with the risks inherent in their businesses. This is how they would be able to build the adequate strategy.

Finally, I would encourage them to be innovative and creative. Some would say that laws and regulations are inflexible, but my view is that there is always a place for innovative solutions.

What would you like to achieve that you have not yet accomplished?

I have pleaded at least once before almost all French courts and I have also been an expert witness in arbitration cases, but have never pleaded before the European Court of Human Rights. I hope I will soon have the opportunity to do so.

WWL says: Market commentators would "highly recommend" Kiril Bougartchev due to his exceptional knowledge and experience of white-collar crime investigations.

Thought Leaders in France 2021

Administrative Litigation

Thomas Courtel, *Gide Loyrette Nouel AARPI*
Thierry Dal Farra, *UGGC Avocats*
Philippe Delelis, *Jones Day*
Marc Fornacciarì, *Dentons*
Emmanuel Guillaume, *Baker McKenzie AARPI*
Thierry Laloum, *Willkie Farr & Gallagher LLP*
Romaric Lazerges, *Allen & Overy LLP*
Nicolas Nahmias, *AdDen avocats*

Arbitration

Claudia Annacker, *Dechert LLP*
Laurent Aynès, *Darros Villey Maillot Brochier*
Yas Banifatemi, *Shearman & Sterling LLP*
Michael W Bühler, *Orrick Herrington & Sutcliffe LLP*
Emmanuelle Cabrol, *Ashurst LLP*
Christian Camboulive, *Gide Loyrette Nouel AARPI*
James Castello, *King & Spalding International LLP*
Thomas Clay, *Clay Arbitration*
W Laurence Craig, *Orrick Herrington & Sutcliffe LLP*
Yves Derains, *Derains & Gharavi*
Ibrahim Fadlallah, *Université Paris X Nanterre*
Raëd Fathallah, *Bredin Prat*
Julien Fouret, *Eversheds Sutherland*
Jason Fry QC, *Clifford Chance Europe LLP*
Emmanuel Gaillard, *Shearman & Sterling LLP*
Hamid Gharavi, *Derains & Gharavi*
Simon Greenberg, *Clifford Chance Europe LLP*
Jean-Christophe Honlet, *Dentons*
Laurent Jaeger, *King & Spalding International LLP*
Sigvard Jarvin, *Independent Arbitrator*
Anna Joubin-Bret, *Anna Joubin-Bret*
Charles Kaplan, *Orrick Rambaud Martel SCP*
Catherine Kessedjian, *Université Panthéon-Assas (Paris II)*
Dany Khayat, *Mayer Brown LLP*
Jennifer Kirby, *Kirby*
Elie Kleiman, *Jones Day*
Bart Legum, *Dentons*
Carole Malinvaud, *Gide Loyrette Nouel AARPI*
Fernando Mantilla-Serrano, *Latham & Watkins*
Pierre Mayer, *Pierre Mayer*
Andrew de Lotbinière McDougall QC, *White & Case LLP*
Isabelle Michou, *Quinn Emanuel Urquhart & Sullivan LLP*
Alexis Mourre, *Independent Arbitrator*
Charles Nairac, *White & Case LLP*
Michael Ostrove, *DLA Piper*
Georgios Petrochilos, *Three Crowns LLP*
Michael A Polkinghorne, *White & Case LLP • Q&A*
Tim Portwood, *Bredin Prat*
Peter Rosher, *Reed Smith*

Noah Rubins QC, *Freshfields Bruckhaus Deringer LLP*
Christopher Seppälä, *White & Case LLP*
Christophe Seraglini, *Freshfields Bruckhaus Deringer LLP*
Eduardo Silva Romero, *Dechert LLP*
Brigitte Stern, *Université Paris I, Panthéon-Sorbonne*
Eric Teynier, *Teynier Pic*
Peter Turner QC, *Freshfields Bruckhaus Deringer LLP*
Annet van Hoof, *Van Hoof Legal*
Melanie van Leeuwen, *Derains & Gharavi*
Todd Wetmore, *Three Crowns LLP*
Michael Young QC, *Quinn Emanuel Urquhart & Sullivan LLP*
Roland Ziadé, *Linklaters LLP*

Arbitration | Expert Witnesses

Matthias Cazier-Darmois, *FTI Consulting*
Andrew Flower, *Alvarez & Marsal • Q&A*
Juliette Fortin, *FTI Consulting*
Jean-Luc Guitera, *KPMG SA*
Patrick Hebreard, *FTI Consulting • Q&A*
David Sevy, *Compass Lexicon*
Erik van Duijvenvoorde, *Accuracy • Q&A*

Asset Recovery

Stéphane Bonifassi, *Bonifassi Avocats*
Jacques-Alexandre Genet, *Archipel*
Emmanuel Kaspereit, *Archipel*

Aviation

Maylis Casati-Ollier, *Clyde & Co LLP*
Simon Foreman, *Courrégé Foreman*
Fabrice Pradon, *Clyde & Co LLP*
Vonnick le Guillou, *DLA Piper*
Charles Viggers, *Watson Farley & Williams LLP*

Banking

Thierry Arachtingi, *Clifford Chance Europe LLP*
Alexander Blackburn, *Bredin Prat*
Raphaële Courtier, *Bredin Prat*
Laurent Mabilat, *Freshfields Bruckhaus Deringer LLP*
Samuel Pariente, *Bredin Prat*

Business Crime Defence & Investigations

Vincent Asselineau, *Asselineau et Avocats*
Stéphane Bonifassi, *Bonifassi Avocats*
Kiril Bougartchev, *Bougartchev Moyne Associés AARPI • Q&A*
Denis Chemla, *Allen & Overy LLP*
Jean-Michel Darros, *Darros Villey Maillot Brochier*

Eric Dezeuze, *Bredin Prat*
Olivier Gutkès, *Gutkès Avocats*
Emmanuel Marsigny, *Marsigny Gosset Avocats*
Jonathan Mattout, *Herbert Smith Freehills LLP*
Astrid Mignon Colombet, *August & Debouzy*
Bruno Quentin, *Gide Loyrette Nouel AARPI*
Sophie Scemla, *Gide Loyrette Nouel AARPI*
Daniel Soulez Larivière, *Soulez Larivière & Associés*
Hervé Temime, *Cabinet Temime*
Stéphane de Navacelle, *Navacelle*

Capital Markets

Cédric Burford, *Clifford Chance Europe LLP*
Hervé Ekué, *Allen & Overy LLP*
Valerie Lemaître, *Cleary Gottlieb Steen & Hamilton LLP*

Commercial Litigation

Stéphane Bonifassi, *Bonifassi Avocats*
Jean-Daniel Bretzner, *Bredin Prat*
Denis Chemla, *Allen & Overy LLP*
Louis Degos, *K & L Gates Law LLC*
Jean-Yves Garaud, *Cleary Gottlieb Steen & Hamilton LLP*
Laurent Jaeger, *King & Spalding International LLP*
Didier Malka, *Weil Gotshal & Manges*
Thomas Rouhette, *Signature Litigation AARPI*

Competition

Eric Barbier de la Serre, *Jones Day*
Olivier Billard, *Bredin Prat*
Hugues Calvet, *Bredin Prat*
Antoine Choffel, *Gide Loyrette Nouel AARPI*
Aurélien Condomines, *Aramis Société d'Avocats*
Loraine Donnedieu de Vabres-Tranié, *Jeantet AARPI*
Jacques-Philippe Gunther, *Latham & Watkins*
Patrick Hubert, *Orrick Rambaud Martel SCP*
Florence Ninane, *Allen & Overy LLP*
Marie-Cécile Rameau, *Bredin Prat*
Igor Simic, *Darros Villey Maillot Brochier*
Sergio Sorinas, *Herbert Smith Freehills LLP*
David Tayar, *Clifford Chance Europe LLP*
Didier Théophile, *Darros Villey Maillot Brochier*
Maria Trabucchi, *BDGS Associés*
Joseph Vogel, *Vogel & Vogel*
Anne Wachsmann, *Linklaters LLP*
Pierre Zelenko, *Linklaters LLP*
Olivier de Juvigny, *Peltier Juvigny Marpeau & Associés*

Competition | Economists

Antoine Chapsal, *Analysis Group*
Laurent Flochel, *Charles River Associates*