



# Press release



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## **KBL case brought before Court on April 3, 2009**

The KBC/KBL case is due to be brought before the Brussels Criminal Court on April 3, 2009. The case involves bank employees in Belgium and Luxembourg who were allegedly implicated in tax fraud committed by Belgian customers. The contested events occurred at the beginning of 1990s.

The case was the focus of both media and public attention between 1996 and 2000. Since the investigation ended in 2000, the persons placed under suspicion have gained access to the details of the criminal case and it appeared, both in form and in substance they are able to demonstrate with solid arguments that they always acted strictly within the confines of the law. Furthermore, only 14 (of whom 11 are employees or former employees of KBC or KBL) of the 40 persons originally placed under suspicion were ultimately referred to the criminal court for trial.

Since the start of this case, the lawyers of the individuals placed under suspicion have questioned the legality of the means used both by the investigators and the examining magistrate. In the light of the evidence in the case, and notwithstanding the decision taken by the Supreme Court ('Cour de Cassation') that the examining magistrate did not commit any criminal offences, the defence still remains convinced that unacceptable irregularities occurred when the investigation was being conducted. The manner in which the documentary evidence – more specifically the documents stolen from KBL in Luxembourg – was introduced into the case will be subjected to further close scrutiny before the Court.

KBC and KBL have always maintained that the employees placed under suspicion have always respected the laws applicable in their countries at the moment of the facts. The banks continue to support them and are convinced that the courts will establish the whole truth in this case and judge the actions of these individuals in an independent, balanced and fair way.

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## Note for the editor

### Archive

The KBL case involving the alleged co-operation in tax fraud is being brought before the Brussels criminal court on April 3, 2009. Some of you may remember that a legal investigation concerning KBL got underway thirteen years ago. Eleven current or former KBC and KBL employees previously placed under suspicion must now face criminal proceedings.

KBC/KBL have always stated and reiterate their conviction that both they and their current or former employees have always complied with all legal and regulatory requirements in the pursuit of their banking business. KBC/KBL still have the utmost confidence in all the persons concerned and in a favourable outcome in this case.

### Background

This matter/case has been pending for thirteen years now and has regularly made headlines. Below are the main details/facts:

- In May 1996, examining magistrate Leys of the Brussels judiciary opened an investigation into alleged co-operation by current or former KBC and KBL employees in tax fraud committed by customers. This investigation was based on documents/microfiches that had been copied and stolen in 1994 by a group of former KBL employees who had all been dismissed. By circuitous means, the stolen documents and microfiches ended up in the possession of the judicial and subsequently the fiscal authorities. This in turn put into question the methods adopted by certain members of the judicial police.
- The investigation itself entailed numerous interrogations and searches (even of some bank customers' homes). Between 1996 and 2001, this case received broad coverage in the media.
- Many KBL clients were requested by the tax authorities to redress their tax situation. Most of them negotiated and reached a compromise settlement with the tax authorities. Others disputed the tax assessed and took their case to court. In many cases the court found in their favour, as the suspect documents on which the tax authorities were basing themselves had insufficient value as evidence. These documents, whose origin was highly questionable, were not admitted in evidence by the courts.
- For their part, KBC and KBL have from the outset disputed the validity/authenticity of the evidence, and the extremely questionable way in which the documents on which the legal investigation is based ended up in the hands of the judicial authorities.
- In October 2000, the examining magistrate concluded his investigation after having placed 37 senior executives and management staff of KBC and KBL under suspicion for, among other things, forgery, tax fraud and money laundering.
- Four years after that, in February 2004, eight years after the investigation began, the Public Prosecutor's Office filed its first final charge (*eindvordering*) against the persons previously placed under suspicion. The public prosecutor requested in his closing speech that 37 of those persons be referred to the criminal court for trial.

Neither the act of placing someone under suspicion (*inverdenkingstelling*) nor the filing of the final charge imply that any guilt has been established. The closing speech of the public prosecutor was nothing more than an expression of the standpoint of the Public Prosecutor's Office. At that point, the persons concerned were entitled, after having found out what the precise charges against them were in the closing speech, to set out their arguments and mount a defence before the court sitting in chambers.

- In October 2007, after having heard the arguments of the defence, the public prosecutor himself, in his final closing speech, dropped the charges against a large number of the

persons who had been placed under suspicion. He also dropped the charges of money-laundering against virtually all those placed under suspicion and requested the referral of 11 of the 37 current or former KBC and KBL employees placed under suspicion for trial for tax fraud and forgery.

- On 11 January 2008, the court sitting in chambers of the Brussels Court decided to drop the charges against 26 managers of the banks who had been under suspicion and to refer 11 people previously placed under suspicion to the criminal court for trial. All the other persons placed under suspicion have had charges dismissed against them because the evidence was insufficient or the period of prescription had expired.

The court sitting in chambers dismissed nearly all of the original allegations of money laundering by current or former KBC/KBL employees. In addition, virtually nothing remained of the original accusation of collusion in fraud on the part of KBC and KBL employees.

An appeal could be lodged with the Indictment Division against the decision of the court in chambers either by the Public Prosecutor's Office or by the persons placed under suspicion.

No current or former KBC employee lodged an appeal. Only two persons (from KBL) have lodged an appeal with the Indictment Division against the decision to refer the case. In addition, the Public Prosecutor's Office has lodged an appeal against the decision to discontinue criminal proceedings against three subsequently retired KBL employees.

- In September 2008, the Indictment Division confirmed the original decision of the court sitting in chambers and thus decided to refer 11 current or former KBC and KBL employees to the criminal court for trial.

### **What happens now?**

Proceedings will now start in the criminal court on April 3. It is now up to the criminal court to examine the merits of the case and decide on the question of the validity of the legal investigation and on the guilt or innocence of those persons placed under suspicion.