

Reaction



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KBC/KBL case brought before Court today

The KBC/KBL case was brought before the Brussels Criminal Court today. The case involves bank employees in Belgium and Luxembourg who were allegedly implicated in tax fraud committed by Belgian customers. The contested events occurred in the early 1990s. The parties involved are pleased that finally, after thirteen years, they are getting the chance to refute the many allegations made against them.

The case was the focus of both media and public attention between 1996 and 2000. After the investigation ended in 2000, the persons placed under suspicion gained access to the records of the criminal case, which showed that, both in form and in substance, they have solid arguments to prove that they always acted strictly within the confines of the law. Above all, it must be pointed out that only fourteen (of whom eleven are employees or former employees of KBL or KBC) of the 40 people originally placed under suspicion have ultimately been 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 remains convinced that unacceptable irregularities occurred during the investigation. 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 at all times respected the laws applicable in their countries when the events occurred. 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 the individuals placed under suspicion in an independent, balanced and fair way.

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Note for the editor

Archive

The KBC/KBL case involving the alleged co-operation in tax fraud was brought before the Brussels criminal court today. Some of you may remember that a legal investigation concerning KBL/KBC got underway thirteen years ago. Eleven current or former KBL and KBC employees previously placed under suspicion must now appear before the court.

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

Background

This case has been pending for thirteen years now. Below are the main facts:

- In May 1996, examining magistrate Leys of the Brussels judiciary opened an investigation into alleged co-operation by current or former KBL and KBC employees in tax fraud committed by customers. This investigation was based on documents and microfiches that had been copied and stolen in 1994 by a group of former KBL employees who were all dismissed afterwards. By circuitous means, the stolen documents and microfiches ended up in the possession of the Belgian judicial and subsequently the fiscal authorities. This in turn caused some former and current KBL employees to 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).
- Afterwards, many tax payers 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, KBL and KBC have from the outset disputed the validity and 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 KBL and KBC 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.

It must be pointed out that 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 is nothing more than an expression of the standpoint of the Public Prosecutor's Office. The court sitting in chambers itself had to pronounce judgement as to the existence or otherwise of sufficient charges to justify referring the persons concerned to the court. These persons have set out many valid arguments against their referral.

- In October 2007, after having heard the arguments of the defence, the public prosecutor himself, in his final closing speech, dropped the charges against the majority of those placed under suspicion. He also dropped the charges of money laundering against virtually all those placed under suspicion and requested the referral of eleven of the 37

current or former KBL and KBC 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 former or current managers of the two banks who had been under suspicion and to refer fourteen people (of whom eleven were bankers previously placed under suspicion) to the criminal court for trial.

The court sitting in chambers dismissed nearly all of the original allegations of money laundering by current or former KBL and KBC employees. In addition, virtually nothing remained of the original accusation of collusion in fraud on the part of KBL and KBC 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 one person from KBL and one person who is not linked to either of the two banks 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 simultaneously requested the discontinuation of criminal proceedings against one additional person placed under suspicion but not linked to either of the two banks.

Proceedings started in the criminal court today. 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.