

Panel discussion on Pre-trial proceedings

**ECBA conference
Antwerp**

24 April 2010



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The panel

- **Mr. E. Francis, Second President of the Court of Appeals, also former Director of COIV, Belgium**
- **Olivier Gutkes, France**
- **Jaanus Tehver, Estonia**
- **Pascal Vanderveeren, Belgium**
- **You, the audience!**

The scenario

- You have been called to deal with a new matter. Big Bank has been raided on a warrant relating to possible financial criminal and regulatory offences.
- The authorities wish to interview immediately two suspects, a trader (Anna Twerp) and her desk manager (Stephan Boss). They also plan to sift the seized material prior to making arrangements to interview the senior management.

Investigation authority

- Which type of investigating authority is likely to be conducting the criminal and/or regulatory investigation?

Search and seizure

- What safeguards are in place in relation to the search? I.e. Who is able to issue the warrant, what needs to be specified on the warrant, for example the precise area to be searched, the type of material to be seized, who can conduct the search etc.?
- How is information held on computers treated?
- How is legally privileged material protected?
- What is the lawyers role during the search?

Interview/interrogation

- How are the suspects likely to be treated? For example will they be arrested?
- Will they be interviewed at the police station or another location? Will they have access to a lawyer?
- What is the lawyers role in the interview?
- What issues may arise about any confessions or admissions made by the suspects?

Financial orders

- What financial orders or restrictions may be placed on the individuals?
- When is this likely to happen?
- What procedural safeguards are available to in relation to them?

Bail

- What is likely to happen in relation to bail?
- Can any other restrictions be imposed?

Photographs, DNA etc

- Will the suspects DNA, photograph, fingerprints or any other samples be taken? Can the authorities insist on taking such samples? What procedural safeguards are available in relation to the retention and/or destruction of such material in the future?

The scenario continues...

Returning to the search of Big Bank, a terrible discovery has been made. Found in the desk of the overseas work placement student, Mr Ivan Simple, are some indecent images of children and elsewhere in the same desk a small wrap of white powder. Mr Simple is to be questioned as a suspect for possession of child pornography and possession of an illegal drug.

Different procedure?

- Are there any issues about seizing this material in the raid?
- Who would deal with the investigation?
- Will the treatment of the suspect be any different to the financial traders?

Interpretation and translation

Mr Junior has some understanding of the local language, but this is relatively limited.

- What provisions are there for an interpreter during any interview or interrogation?
- What is the interpreter's role?
- Is he able to assist in any client/lawyer conversations?

Thank you