

**Two-year study on "Pre-trial Emergency Defence" confirms
pre-trial legal advice is essential**

Access to legal advice pre-trial is an essential element of the fair trial principle. On 12 July 2011 the European Commission adopted the proposal for a Directive on the right to access to a lawyer in criminal proceedings and on the right to communicate upon arrest, which is currently being discussed by the Council of the European Union, and the European Parliament. Based on a two years research programme, "Pre-trial Emergency Defence", confirms that such a measure is vital to ensure an individual's rights are respected and upheld in criminal proceedings.

Holger Matt, Chairman of the ECBA commented, "Access to a lawyer at the earliest opportunity in a criminal case ensures an individual's rights are respected and upheld in practice. For too long there has been a continuous degrading of the rights of the citizen in favour of enhancing the powers of the State. The Directive on the right to access to a lawyer is an essential proposal to put the rights of the citizen firmly back on the agenda. We have already seen attempts to agree on procedural rights in this area fail; to do so again would send a disastrous message to the world that the EU is not capable of upholding and honouring its citizen's rights."

The study:

- explores the factors influencing the suspect's decision whether to access legal advice pre-trial or to waive this right.
- demonstrates the decisive influence of whether and how the suspect will be provided information on his rights;
- confirms that suspects tend to underestimate the importance of pre-trial proceedings.
- reviews factors such as the costs of legal advice and legal representation as well as the availability of legal aid already pre-trial.
- evaluates pre-trial access to defence rights not just in law but also in practice, focusing especially on the effectiveness of emergency lawyer schemes as a practical tool to facilitate access to effective legal advice.

The study has been implemented by the Austrian Criminal Bar Association in cooperation with researchers from the Universities of Graz, Vienna, Ljubljana and Zagreb, and the European Criminal Bar Association. It has been financially supported from the Criminal Justice Programme of the European Commission, by the Austrian Ministry of Justice and the Austrian Bar. The views expressed in the study publication are those of the authors and do not necessarily reflect the views of the supporters of the study implementation.

Presenting the findings of the "Pre-trial Emergency Defence (PED)" project on pre-trial access to defence rights in Austria, Croatia, Germany and Slovenia, the new released book on "Pre-trial Emergency Defence", edited by Stefan Schumann, Karin Bruckmüller and Richard Soyer, provides conclusions and recommendations on how to improve pre-trial access to legal advice – by taking both legal and practical measures.