

**CASE NOTE:  
THE NETHERLANDS**

CASE CITATION:  
**LJN BX0140**

NAME AND LEVEL OF THE COURT:  
**The Hague District Court**

DATE OF DECISION:  
**4 May 2012**

*Analysis of seized mobile telephones*

Counsel for the defence argued that the police should not have extracted data from the accused's mobile telephone, because the telephone was protected by a code and there was no legal basis for the extraction. The District Court does not endorse counsel's opinion. There is no criminal legal rule prohibiting the investigation of an item after it has been seized. The investigation was particularly simplified because the pin code was the standard code 0000. It was therefore not necessary to exercise any supplementary powers such as requesting the PUK code under article 126ng Code of Criminal Procedure. Moreover, legislation with regard to data carriers – which include mobile telephones – provides that a search for the purpose of seizure also comprises the power to investigate in and to examine and gather the data stored in data files that are present on the site of the search. In view of the above, there is no evidence of any failure to comply with procedural requirements, so that there are no grounds to exclude the evidence found after examination of the mobile telephone.

The accused was convicted and sentenced for cocaine trafficking to a custodial sentence of six months with deduction of time spent in pre-trial custody.

This case report is by courtesy of the Expertise Centre on **Cybercrime**, and was first published in *Vertaalde Nieuwsbrief*, 2012, nr 3 (translated version)