

Dawn raids by supervisory authorities - Quick Reference Card

Phase 1 - Receiving the regulator	Action Points	Check
<p>Visit from a supervisory administrative authority</p> <p><i>Adjust your mindset, the regulator is not a client.</i></p> <p>The officials are visiting in order to collect information for their investigation. They may look at documents and electronic files, ask employees questions, etc.</p>	<p>Ensure that a supervisor or, if no supervisor is present, an assistant supervisor receives the officials. Also make sure that a legal counsel is present.</p>	
	<p>Show the officials to a separate room (waiting room) that does not contain documents and does not provide access to the company's IT system/network. If a Wi-Fi network is available: ascertain it is protected. If in doubt, switch the network off.</p> <p>Try to keep the officials in the separate room/waiting room for as long as possible.</p>	
	<p>Immediately notify:</p> <ul style="list-style-type: none"> • the legal counsel (if available in the organisation); • the management; • your direct supervisor(s); and • the designated IT expert. 	
	<p>Contact a lawyer as soon as possible (so that they can come asap):</p> <p>Dr. Joost Houdijk (AKD): +31 (0)88 253 5079 (office) +32 (0)477 88 55 71 (mobile) e-mail: jhoudijk@akd.eu</p> <p>Mr. Frits Schneider (AKD): +31 (0)88 253 5245 (office) +31 (0)6 55 73 57 33 (mobile) email: fschneider@akd.eu</p>	
<p>Ask, note, inquire and verify</p>	<ul style="list-style-type: none"> • Note the name of the officials' team leader and the name of the authority/regulator. • Ask and note the purpose of the investigation. • Ask and note the name of the company/companies that is/are the subject of the visit and/or investigation. • Ask for and copy the document that shows that the team is competent to carry out the investigation (investigation mandate). • Ask for and note the name/names of the person/persons the officials wish to interview. • Verify the identity papers of each of the officials (authenticity, name and photograph). • Note down the name and ID card number of each official. • Make practical arrangements with the officials; agree, for example, that they will not wander around the office. 	
<p>Actions employees</p>	<ul style="list-style-type: none"> • Tidy up desks immediately, shut down computers and close cabinets. • Pair an employee to every official to monitor him/her. 	
<p>Internal communication</p>	<p>Send an internal email that includes the following information:</p> <ul style="list-style-type: none"> • a visit/investigation is ongoing; • documents, data and files must not be destroyed, hidden and/or falsified; • a general ban on informing third parties about the visit; and • a general ban on communicating about the visit on internet or social media (Facebook, Twitter, etc.). 	
<p>External communication</p>	<p>Do not make any external statement about the unannounced visit (e.g. press release), not even through internet or social media.</p>	

Phase 2 - Investigation	Action points	Check
Postpone the investigation	In case the officials want to start the investigation, ask them to wait until the contact person and lawyer(s) are present.	
	Emphasise the willingness of the company to cooperate with the investigation.	
	Try to gather information from the officials to find out if they are also conducting visits in other locations of the company and whether they are also investigating private residences (i.e. employee or director residences).	
	When it is clear that a visit is ongoing in other locations (e.g. in other companies of the group, in private residences or competitors), pass it on to the lawyer immediately.	
Start of the investigation	Do not give permission for anything until you have spoken to the lawyer.	
	In the event of requests or questions, always refer to a supervisor.	
	Do not answer questions you do not know the answer to, but communicate that you do not know the answer. Abstain from guessing and thinking out loud.	
Right to remain silent	If the officials pose a question, ask whether you have the right to remain silent. If so, be silent.	
	Do not cooperate under the pressure of promises or “threats” without consulting a lawyer.	
During the investigation	Keep your eyes and ears open and make a report of your observations. Listen to the central thread in the phrasing of questions.	
Confidentiality	The visit/investigation by the officials is strictly confidential; Confidentiality extends to the knowledge that there has been an investigation, and to the knowledge about the investigative acts performed and the information emerged.	

Phase 3 - after the investigation	Action points	Check
Map and decide	Go through the purpose of the investigation, the list of documents seized by the authority and the requested information.	
	Assess whether the company will submit a leniency application.	
Communication	Internal communication: point out (once again) to employees that it is prohibited to inform third parties about the visit. Employees must not mention the visit on internet or social media (Facebook, Twitter, etc.).	
	Decide about any external communication measures (e.g. press release, message to clients)	