



Irish Centre for European Law

Trinity College, Dublin

IN ASSOCIATION WITH  eu2013.ie

CONFISCATION AND RECOVERY OF CRIMINAL ASSETS

Friday 12 April 2013

Royal Irish Academy, 19 Dawson Street

9.45am – 4pm (*Registration & Coffee from 9.15am*)

This conference will discuss the recovery and confiscation of criminal assets. It will examine current developments at EU level and include discussion of the Confiscation Directive. It will also focus on the practical aspects of criminal asset recovery, including practice and procedure before the courts and the relevance of fundamental rights.

4 CPD Points

Programme

9.15-9.45am Registration & Coffee

9.45am **Welcome - Nathy Dunleavy BL, Director ICEL**

9.50am **I. The Irish Presidency & Some Past and Future Perspectives on the Recovery of Criminal Assets**

**Chair: Senator Ivana Bacik
Reid Professor of Criminal Law, Trinity College, Dublin**

Chairperson's Introduction

10am **James Hamilton**

Some Comments on the Development of Criminal Assets Recovery in Europe and Models for the future

10.40am Q&A and Discussion

11-11.30am **Morning Coffee**

II. View from the Investigative Authorities

11.30pm **Declan O'Reilly**
Bureau Legal Officer, Criminal Assets Bureau, Dublin

Invisible and vanishing assets: Issues in identifying, confiscating and disposing of criminal assets

12pm **Burkhard Mühl**
Senior Specialist, Europol Criminal Asset Bureau, The Hague

The role of the Europol Criminal Asset Bureau and comments on the EU Confiscation Directive

12.30pm Q&A and Discussion

12.45pm – 2pm **Light Lunch**

2pm

III. Recent Case Law and Issues before the Courts

Chair: The Hon. Mr Justice Kevin Feeney
High Court of Ireland

Chairperson's Introduction

2.10pm

Shelley Horan BL
Law Library & Adjunct Assistant Professor, Trinity College Dublin

Recovering the Proceeds of White Collar Crime

2.40pm

Simon Farrell QC
3 Raymond Buildings, London

Current Trends in Confiscation and Cash Forfeiture/Tax Fraud Cases

3.10pm

Benedict Ó Floinn
Barrister-at-Law, Law Library, Dublin

The Operation of the Proceeds of Crime Act in Ireland – Recent Trends

3.40pm

Q&A and Discussion

4pm

Conference Ends

Biographical Notes

Ivana Bacik is the Reid Professor of Criminal Law, Criminology and Penology (1996), a Fellow of Trinity College Dublin and a practising Barrister. Ivana is Director of Undergraduate Teaching and Learning in the School of Law, Trinity College Dublin. She has a Law degree from Trinity College Dublin and an LL.M. from the London School of Economics. She practises as a barrister, and teaches courses in Criminal law; Criminology and Penology; and Feminist Theory and Law at Trinity. Her research interests include criminal law and criminology, constitutional law, feminist theories and law, human rights and equality issues in law. Ivana Bacik was elected to the Seanad in 2007.

Simon Farrell QC is a member of 3 Raymond Buildings, London. He is a criminal and regulatory practitioner, with expertise in commercial fraud, confiscation and money laundering cases. He has become increasingly involved in international cross border commercial disputes in which these issues arise in the UK, Luxembourg, the Seychelles, the Isle of Man and Dubai. He advises on a wide range of civil and criminal issues in these areas in High Court, arbitral, Crown Court and Appellate proceedings. He is frequently consulted in cases with an international dimension including those involving extradition and mutual assistance and in restraint, receivership and civil/cash recovery proceedings. Simon undertakes other serious criminal work such as murder, human trafficking and drugs cases. He is co-author of several books concerning money laundering, fraud and asset recovery and is a member of the Serious and Organised Crime Agency's (SOCA) Asset Recovery Committee. He sits as a Recorder (deputy Circuit Judge) in the Crown Court and has been appointed to the panel of part-time Deemsters (judges) by the Lieutenant Governor of the Isle of Man. Simon was called to the Bar in 1983 and took silk in 2003.

The Honourable Mr Justice Kevin Feeney is a Judge of the Irish High Court who has dealt with applications relating to the forfeiture of criminal assets for the past five years.

Since his early retirement as Director of Public Prosecutions in 2011 **James Hamilton** has worked as an independent consultant with over 30 years experience focused on issues of rule of law, public law, judicial and prosecutorial systems, constitutional justice, criminal justice law, and anti-corruption. He has extensive experience in public prosecutions and state laws, as head of the prosecution service in Ireland for 12 years and as a legal advisor for 18 years in the Office of Attorney General including more than 4 years as head of the Office. He has considerable international experience supporting Venice Commission missions and has written reports on subjects including Laws on the Prosecutors Offices in Serbia, Bulgaria, Hungary, Russia and Ukraine; Political Parties in Moldova, Russia, and Azerbaijan; the Amnesty Law and the Law on Occupied Territories in Georgia; the Constitution of Montenegro; the Law on the Status of Judges in Kyrgyzstan. He has worked for the European Union on anti-corruption issues and criminal justice systems in Bulgaria, Romania, Serbia and Albania. Appointed an Irish expert on the Group of States against Corruption (GRECO) to complete peer assessment reviews, he has carried out a peer assessment review in Greece for the Organization for Economic Co-operation and Development (OECD) on the Foreign Bribery Convention. His current professional legal activities include Irish Member of the Venice Commission, President of the International Association of Prosecutors, Member of EU Commission's Group of Experts on

Corruption, and he was recently appointed as an independent adviser to the First Minister of Scotland on the Scottish Ministerial Code.

Shelley Horan B.C.L. (Hons), LL.M (Corp. and Comm. Law Lond.) (Hons), B.L. (Hons) is a barrister based in Dublin practicing in corporate and commercial law. Shelley is an Adjunct Assistant Professor of Law in Trinity College Dublin and is the Course Director of the Diploma in White-Collar, Corporate and Regulatory Crime in King's Inns in Dublin. Shelley is the author of the legal textbook, *Corporate Crime* (Bloomsbury Professional, 2011) and two chapters in the academic textbook entitled Zetzsche (ed), *The Alternative Investment Fund Managers Directive: European Regulation of Investment Funds* (Kluwer Law International, 2013). Shelley is a CEDR Accredited Mediator, a member of the Disciplinary Committee of Certified Public Accountants, a member of the Expert Advisory Group for National Integrity Systems Study and was a Director of Project Arts Centre. Shelley has published and presented widely in the realm of white-collar crime, engaged in a number of conferences and TV and radio discussions on the subject and she is also researching for a PhD in white-collar crime in Trinity College Dublin.

Burkhard Mühl has worked for many years as a financial investigator in various functions within the Austrian Ministry of the Interior. He mainly investigated organised crime and money laundering cases and acquired a specialisation in asset recovery. In 2007 he was recruited by Europol as the project manager for the Europol Criminal Assets Bureau. In this function he is responsible for supporting EU law enforcement agencies to trace and recover criminal assets at global level, mainly via the EU Platform of Asset Recovery Offices and the CARIN Network. Burkhard Mühl graduated in the UK with a Master of Arts in Financial Investigation and Financial Crime, completing a thesis on law enforcement's access to financial data.

Benedict Ó Floinn was called to the Bar in 1992, after reading law at Christ Church, Oxford and has been in practice continuously since. Since 1997, he has acted on behalf of the Criminal Assets Bureau in respect of assets accumulated by individual criminals, paramilitaries and organized crime gangs from theft, drug-dealing, 'VAT Carousel' fraud, fuel-laundering, corporate fraud and money-laundering, in both Ireland and other European States. The jurisprudence generated by this work includes *McK –v- D. C. and Ors* [2006] IEHC 185 (which set out the criteria for applications under section 2 of Proceeds of Crime Act) *Criminal Assets Bureau –v- O'Brien* [2010] IEHC 12 (dealing with the circumstances in which the Bureau are entitled to confiscate a family home); *Gilligan –v- Murphy* (the determination of applications under section 3(3) and the application of the ECHR) and *In re Noonan* (involving the appointment of the Bureau Legal Officer as trustee in bankruptcy following threats to the Official Assignee). Mr. Ó Floinn has appeared on behalf of the Director of Public Prosecutions in a number of fraud, regulatory and corporate crime trials, including the prosecution of Ray Burke, former government minister. He regularly advises and represents the Revenue Commissioners in both tax appeals and civil matters, on the instruction of the Revenue Solicitor's Office, and conducts cases for various other state agencies in both English and Irish. Mr. Ó Floinn's private-client work has involved a wide range of commercial disputes including corporate restructuring, professional negligence and debt recovery. Currently, he is engaged as one of the counsel representing Irish-based investment companies suing HSBC Institutional Trust Services (Ireland) Limited for the return of 1.5 billion euro entrusted to Bernard Madoff, the disgraced financier. He served for several years on the Education

Committee of the Kings Inns, Dublin, was a member of the expert group recently advising the Law Reform Commission on the Consolidation and Reform of the Courts Acts and was consultant editor of de Brúin's Transnational Litigation. He is the author of *Practice and Procedure in the Superior Courts*.

Declan O'Reilly is the Bureau Legal Officer of the Criminal Assets Bureau. He is the head of legal within the Bureau and was appointed to this role on the 11th June 2011 by the Minister for Justice with the consent of the Minister for Finance and the Attorney General. Declan holds a BA in Law and European Studies from UL, an LLM in Commercial Law from UCD and an Advanced Diploma in Corporate, Whitecollar and Regulatory Crime from Kings Inns. Declan is a solicitor admitted to Roll of Solicitors in Ireland but also England and Wales. Declan was recruited as a State Solicitor to the Criminal Assets Section of the Chief State Solicitor's Office in 2001. His former positions included that of: Deputy Head of the Criminal Assets Section (CSSO); Project Manager and Principal Solicitor in the Office of the Attorney General; and Section Head of the Criminal Assets Section (CSSO) which he left to take up his current appointment. Declan speaks extensively on topic of the proceeds of crime, and is currently co-chair of the Camden Assets Recovery Inter-agency Network, which has 53 registered member jurisdictions including all 27 members states of the EU. The CARIN network will be holding its AGM in Dublin in May of this year. Declan will address you on some of the practical issues concerning criminal assets.