



ANNUAL REPORT 2011

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Mr. Alan Shatter, T.D.
Minister for Justice, Equality & Defence
94 St. Stephen's Green
Dublin 2

Dear Minister

In accordance with the terms of Section 21 of the Criminal Assets Bureau Act 1996, I am pleased to present to you the 2011 Annual Report of the Criminal Assets Bureau.

The report outlines the activities of the Bureau during the course of 2011 in the pursuit of its statutory remit, detailing actions brought by the Bureau under the proceeds of crime, revenue and social welfare legislation in successfully targeting the suspected proceeds of criminal conduct. The report demonstrates that the Bureau remains an integral part of the law enforcement response to criminal conduct in Ireland.

The Bureau saw an increase in cases relating to fraud and theft and actions brought by the Bureau against assets deriving from this type of criminal conduct. Of significance in this regard is the development which has resulted in the identification of funds from which victims of crime may recover their losses. During the course of 2011, the Bureau also successfully targeted a number of cases of significant fraud against the social welfare system, resulting in the recovery of overpayments and the referral of cases to the Director of Public Prosecutions for consideration of prosecution.

Internationally, the Bureau continues to liaise and conduct investigations with law enforcement and judicial authorities throughout Europe and worldwide in pursuit of assets deriving from criminal conduct. The Bureau continues to be an active member of the Camden Asset Recovery Inter-agency Network (CARIN) and to maintain its effectiveness at

an international level as the designated Asset Recovery Office (ARO) in Ireland, utilising these networks to achieve its objectives.

In pursuing its objectives, the Bureau liaises closely with An Garda Síochána, the Revenue Commissioners, Department of Social Protection and the Department of Justice and Equality and all law enforcement agencies in the State in developing a coherent strategy to target assets and profits deriving from criminal conduct, and in particular, organised crime.

Yours sincerely

**MARTIN CALLINAN
COMMISSIONER OF
AN GARDA SÍOCHÁNA**

June, 2012

Criminal Assets Bureau

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28th June 2012

Commissioner
An Garda Síochána
Garda Headquarters
Phoenix Park
Dublin 8

Dear Commissioner,

It is my pleasure to present to you the 16th Annual Report of the Criminal Assets Bureau for the calendar year 2011. This report is submitted for presentation to the Minister for Justice, Equality & Defence, pursuant to the provisions of Section 21 of the Criminal Assets Bureau Act, 1996.

The report sets out the results of the work undertaken by the Bureau throughout the year in pursuit of its statutory remit in targeting the criminal assets of persons suspected of being involved in criminal conduct. During 2011, in addition to undertaking new investigations, the Bureau placed considerable emphasis on the ultimate disposal of a number of outstanding cases. This arose in the context of the number of sets of proceedings in which the statutory period of seven years provided for under the Proceeds of Crime Act 1996 / 2005 has been reached or is approaching. A total of twenty three (23) cases under the proceeds of crime legislation were concluded during the year, yielding in excess of €2.7 million to the exchequer. During the year, six (6) new proceedings were brought before the High Court under the proceeds of crime legislation. The majority of these actions were taken against persons suspected of drug trafficking. In addition, actions were taken against persons suspected of involvement in other forms of criminal conduct, notably fraud offences and bogus investment fraud in particular. Actions were also taken against persons engaged in the illicit trade in counterfeit fuel laundering and counterfeit cigarette smuggling.

In addition, the Criminal Assets Bureau, using appropriate Revenue provisions, forwarded in excess of €3.8 million to the Central Exchequer and also recovered in excess of €154,000 in respect of overpayments under Social Welfare provisions.

As in previous years, the strategy of the Bureau has been drawn up insofar as possible to coordinate with the Policing Plans of An Garda Síochána and the strategies of the Revenue Commissioners and the Department of Social Protection. While the Bureau is not primarily engaged in the investigation of criminal offences, there has been strong liaison with the Office of the Director of Public Prosecutions, An Garda Síochána and the Revenue Commissioners in ensuring that the appropriate remedies are pursued in respect of criminal conduct. This report sets out a number of criminal investigations undertaken by the Bureau throughout the year, some of which have resulted in proceedings before the Criminal Courts. The Divisional Assets Profiler Programme has been extended and further developed during 2011. The primary aim of this development is to enhance the Bureau's effectiveness through the provision of training to related agencies. It also aims to ensure that the Bureau maintains a presence in all Garda Divisions.

The Bureau's work in 2011 saw an increase in the number of investigations undertaken in co-operation with international investigation agencies. As a result some success was achieved in targeting proceeds of foreign criminality and in addition criminal proceeds from this jurisdiction which have migrated abroad. A number of significant investigations in this category are underway at this time. The Bureau continues to develop its relationships with Interpol, Europol and CARIN. In addition, on the international level, the Bureau continues to represent Ireland at the platform of the Assets Recovery Offices in Brussels.

I am happy to report that, throughout the year, the Bureau continues to receive excellent support from members of the public. This is demonstrated through the good working relationships with the Financial Institutions, Accountancy Bodies and the other regulatory agencies within the country as well as from direct liaison with the public. Overall the primary focus of the Bureau remains, namely, to target serious organised criminals operating at national and international levels. This core priority is matched by the Bureau's policy to the support of efforts to combat criminal conduct at local community level and the Divisional Profiler Programme has been enhanced further as part of the effort to pursue improvements at local level.

I wish to acknowledge with gratitude the support and co-operation afforded to the Bureau throughout the year by An Garda Síochána, the Office of the Revenue Commissioners, the Department of Social Protection, the Department of Justice and Equality, the Department of Finance, the Office of the Attorney General and the Office of the Director of Public Prosecutions. I would also like to particularly acknowledge the expertise and commitment of the solicitors and staff allocated by the Chief State Solicitor to the work of the Bureau. I also wish to acknowledge the contribution of Counsel engaged by the Bureau.

Finally, as Chief Bureau Officer, I wish to acknowledge the high level of professionalism, dedication and commitment demonstrated by all Bureau Officers and staff of the Bureau comprising the Bureau Legal Officer, the personnel seconded from the Department of Justice and Equality, An Garda Síochána, the Department of Social Protection and the Revenue Commissioners.

In many respects, the level of commitment and co-operation between the staff of the various state bodies represented at the Bureau is achieved in the face of very difficult investigations. This level of commitment remains one of the primary factors which maintain the Bureau's effectiveness in facing the challenges which are presented on a daily basis.

Yours sincerely

D/CHIEF SUPERINTENDENT
EUGENE CORCORAN
CHIEF BUREAU OFFICER

28th June, 2012

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Criminal Assets Bureau

Annual Report

2011

Chapter 1

1. INTRODUCTION

- 1.1 This is the sixteenth Annual Report of the activities of the Criminal Assets Bureau (hereinafter referred to as the Bureau) and covers the period from 1st January 2011 to 31st December 2011 inclusive.
- 1.2 The Bureau was established in 1996 by the Criminal Assets Bureau Act 1996 (hereinafter referred to as “the Act”). The Act was amended by the Proceeds of Crime (Amendment) Act 2005. Sections 4 and 5 of the Act set out the statutory objectives and functions of the Bureau and these sections are attached at Appendix 1 of this report.
- 1.3 This report is prepared pursuant to Section 21 of the Act which requires the Bureau to present a report, through the Commissioner of An Garda Síochána, to the Minister for Justice, Equality & Defence, of its activities during the year.

Chapter 2

2. PERSONNEL

- 2.1 The Bureau is staffed by officers from An Garda Síochána, the Office of the Revenue Commissioners, the Department of Social Protection, the Department of Justice and Equality and the Bureau Legal Officer.
- 2.2 The total number of staff in the Bureau at 31st December 2011 was Seventy (70). This figure represents an increase of two (2) personnel in 2011 over the previous year. The Department of Social Protection seconded one extra Higher Executive Officer (HEO) to the Bureau to assist with the increased workload in the Social Welfare area. In addition the Department of Justice and Equality filled a Clerical Officer vacancy which had been vacant. The breakdown of staffing in the Bureau is shown in Chart 1 overleaf:
- 2.3 Historically, the Chief State Solicitor assigned two (2) Solicitors, two (2) Legal Executives and two (2) Clerical Officers to provide the necessary legal support services to the Bureau. As reported in the Criminal Assets Bureau 2010 Annual Report, following the resignation of a Solicitor in 2009, a vacancy existed. This position has not been filled during the course of 2011. The Bureau continues to press for the assignment of a full complement of staff in light of ongoing and increased legal services required by the Bureau.

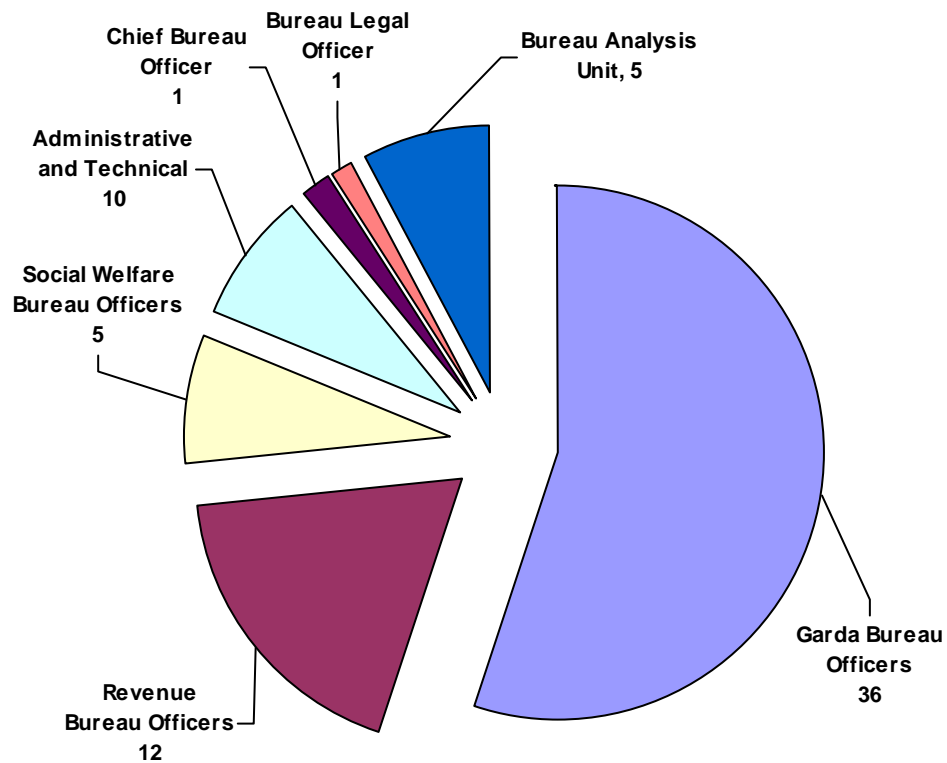


Chart 1:- Bureau Officers and Staff

2.4 The Divisional Criminal Assets Profiler Programme continued throughout 2011. The number of trained Criminal Asset Profilers currently stands at one hundred and fifty eight (158), which includes one hundred and forty three (143) Gardaí and fifteen (15) Officers of the Revenue Commissioners engaged in customs and excise duties. The Programme is currently under review and an additional training course is planned for 2012, which will train a further twenty five (25) Profilers. The role of the Divisional Criminal Asset Profilers is to liaise with and assist the Bureau in the course of investigations within their respective Garda Divisions and Districts. In addition, Criminal Asset Profilers prepare profiles on criminals operating within their operational area and refer them to the Bureau for consideration of action pursuant to the Bureau's statutory remit.

Chapter 3

3. FINANCE

3.1 During the course of the year the Bureau expended monies provided to it through the Oireachtas by the Minister for Justice, Equality & Defence in order to carry out its statutory functions and to achieve its statutory objectives.

3.2 The Bureau expended €6,673 million as broken down in the following Table 1.

Table 1:- Accounts for the period 1st January 2011 – 31st December 2011

<i>Monies provided by the Oireachtas</i>			6,673,000
<i>Expenditure</i>	<i>Pay</i>	5,744,000	
	<i>Non-Pay</i>	929,000	
	<i>Total</i>	6,673,000	6,673,000

3.3 All monies provided by the Oireachtas as outlined in Table 1 above are audited by the Comptroller and Auditor General, as is provided for by Statute.

Chapter 4

4. ACTIONS BY THE BUREAU

4.1 During the course of the year the Bureau undertook a number of Court actions and actions otherwise than through the Courts in the exercise of its statutory objectives. This report sets out details of the actions in question including the results achieved by the Bureau in the execution of its statutory obligations to target the proceeds of criminal conduct.

4.2 The nature of the actions undertaken by the Bureau cover a wide range of activities. These include the exercise of powers under Revenue and Social Welfare legislation together with the use of statutory powers specifically designated for use by members of the Bureau and An Garda Síochána.

4.3 Court applications were made by the Bureau, pursuant to Sections 14 and 14A of the Act, to obtain Search Warrants and Production Orders which were used by the Bureau to uplift evidence in carrying out its investigations. The numbers of Warrants and Orders obtained are set out in Table 2 below.

Table 2:- Number of Warrants and Orders

<i>Description</i>	<i>Number</i>
<i>Search Warrants under Section 14 of the Act</i>	<i>85</i>
<i>Orders to make material available under Section 14A of the Act</i>	<i>237</i>

4.4 A substantial part of the work of the Bureau culminates in proceedings before the High Court. During 2011 the Bureau initiated a number of actions under the Proceeds of Crime Act 1996 and 2005 (hereinafter referred to as the PoC Act) and other legislation. In addition, considerable resources are required in order to advance actions which have been initiated in previous years.

PROCEEDS OF CRIME ACTIONS

- 4.5 Proceedings under Proceeds of Crime legislation are usually commenced by the Chief Bureau Officer, or the Bureau in its own name, making an application to the High Court under Section 2 of the PoC Act seeking an Interim Order, which prohibits dealing with property if the Court is satisfied, on the civil standard of proof, that such property is the proceeds of criminal conduct and has a value of not less than €13,000.
- 4.6 Following the making of an Order under Section 2 of the PoC Act, the Bureau must, in order to keep the prohibition in place, apply to the same Court within twenty-one (21) days for an Order under Section 3 of the same Act. If such an application is successful the High Court makes an Interlocutory Order, which in effect freezes the property until further notice. The Court may discharge or vary the freezing order at any time on being satisfied that all or part of the property is not the proceeds of criminal conduct or for other reasons set out in the legislation.
- 4.7 A Section 3 application may be made even where no Section 2 Order is in place or has been sought. An application for an Order under Section 2 is made where there is an immediate concern that property may be dissipated or in other circumstances, including where a receiver should be appointed to preserve its value.
- 4.8 Once a Section 2 or Section 3 Order is in place it is open to any person to seek to vary or set aside such freezing Order (Section 2(3) or Section 3(3) of the PoC Act), if that person can satisfy the Court that they have a legitimate right to the property and/or the property is not the proceeds of criminal conduct.
- 4.9 A receiver may be appointed by the Court under Section 7 of the PoC Act, either to preserve the value of or dispose of property which is already frozen under Section 2 or Section 3 Orders. In 2011 the Bureau obtained eighteen (18) Receivership Orders. In all cases the Receiver appointed by the Court was the Bureau Legal Officer. These cases involved actions against properties, cash, money held in bank accounts, investment bonds, motor vehicles, a mobile home and jewellery. In some Receivership cases the High Court made Orders for possession and sale by the Receiver. A Receivership Order cannot be made unless a Section 2 or Section 3

Order is already in place.

- 4.10 Section 4 of the PoC Act provides for the making of Disposal Orders whereby the High Court may make an order transferring assets, which have already been frozen under a Section 3 Order for at least seven years, to the Minister for Finance and the Minister for Public Expenditure and Reform or to such other person as the Court may determine.
- 4.11 The Proceeds of Crime (Amendment) Act 2005 made provision for the obtaining of a Section 4A consent Disposal Order whereby the High Court may make a similar Order to that of a Section 4 Order on consent, in cases where the Section 3 Order is in existence for less than seven years.
- 4.12 There were six (6) new cases taken under the PoC Act during 2011. In addition, twenty three (23) cases were completed during 2011. The number of Orders obtained under Sections 2, 3(1), 3(3), 4, 4A, and 7 of the PoC Act and their values, are shown in Table 3.

Table 3:- Orders obtained under the Proceeds of Crime Act 1996 & 2005

<i>Description</i>	<i>Number of Orders</i>	<i>Number of Respondents</i>	<i>Amount €</i>	<i>Amount STG £</i>	<i>Amount USD \$</i>
<i>Interim Orders under Section 2</i>	<i>6</i>	<i>17</i>	<i>5,384,559.73</i>	<i>6,725.00</i>	
<i>Interlocutory Orders under Section 3(1)</i>	<i>19</i>	<i>48</i>	<i>7,169,793.98</i>	<i>73,248.29</i>	<i>699,889.09</i>
<i>Variation Orders under Section 3(3)</i>	<i>5</i>	<i>12</i>	<i>2,843,012.96</i>		
<i>Disposal Orders under Section 4</i>	<i>8</i>	<i>13</i>	<i>1,383,983.20</i>		
<i>Consent Disposal Orders under Section 4A</i>	<i>15</i>	<i>35</i>	<i>2,047,745.06</i>		
<i>Receivership Orders under Section 7</i>	<i>18</i>	<i>40</i>	<i>5,282,489.02</i>	<i>671,842.30</i>	

Some figures include sums converted from other currencies

4.13 Arising from Proceeds of Crime actions, a total of €2,734,715.22¹ was paid over to the Minister for Finance and the Minister for Public Expenditure and Reform during 2011. These funds related to Section 4 and Section 4A Orders obtained during the course of the year and previous years.

4.14 In addition to the sum as set out in 4.13, the Bureau secured an order pursuant to Section 3(3), transferring the sum of €2.682 million to a liquidator to be distributed for the benefit of victims of a fraud. This related to funds which had been determined to be proceeds of crime following an application brought by the Bureau. In a further proceeds of crime case brought by the Bureau, a sum of £300,000 sterling was forwarded to HM Courts and Tribunals Services UK in satisfaction of a criminal confiscation debt.

¹ This includes denominations of Sterling converted to Euro.

RECEIVERSHIP ACCOUNTS

4.15 The following Table 4 sets out the opening balance as of 1st January 2011, the activity during the year and the closing balance as of 31st December 2011 in receivership accounts held at the Bureau.

Table 4:- Statement of Receivership Accounts

	€	STG £	US\$
<i>Opening Balance Receivership Accounts 01/01/2011</i>	<i>7,935,480.05</i>	<i>828,795.59</i>	<i>699,460.18</i>
<i>Amounts realised, inclusive of interest and operational advances</i>	<i>3,568,003.05</i>	<i>383,313.23</i>	<i>2,452.44</i>
<i>Payments out, inclusive of payments to the Minister for Finance and Operational Receivership Expenditure</i>	<i>3,562,549.77</i>	<i>110,820.92</i>	<i>769.32</i>
<i>Closing Balance Receivership Accounts 31/12/2011</i>	<i>7,940,933.33</i>	<i>1,101,287.90</i>	<i>701,143.30</i>

4.16 During the last quarter of 2011, the Department of Justice and Equality Internal Audit Unit carried out an audit on behalf of the Bureau, reviewing management systems and controls in place in the Bureau and by the Receiver into all assets coming into the possession of the Bureau and the Receiver. As of 31/12/2011 the final report was awaited.

REVENUE ACTIONS

4.17 The Bureau is empowered under the Act to apply, where appropriate, the relevant powers of the Taxes Acts to the profits or gains derived from criminal conduct and suspected criminal conduct. The application of these powers enables the Bureau to carry out its statutory remit and is an effective means of depriving those engaged in criminal conduct and suspected criminal conduct, of the opportunity to derive a benefit from such profits or gains.

- 4.18 The provisions of the Disclosure of Information for Taxation and Other Purposes Act 1996 were used extensively during the year in providing for the transfer of information between the Revenue Commissioners and the Bureau.
- 4.19 Following investigations into the financial affairs of those engaged in criminal conduct, or suspected criminal conduct, the Bureau applied the provisions of the Taxes Acts, where appropriate. A number of investigations were concluded by agreement providing for the payment of tax, interest and penalties.
- 4.20 Revenue Bureau Officers raised assessments on thirty five (35) individuals during 2011. Persons have an entitlement to make an appeal to the Appeal Commissioners where they are aggrieved by an assessment. During the year, twenty three (23) individuals invoked this right. Of these individuals, eight (8) had their appeal applications refused by the Bureau due to failure to comply with the relevant provisions of the Taxes Acts. Five (5) of these individuals appealed the refusal to the Appeal Commissioners. During the year the Appeal Commissioners upheld the Bureau's decision to refuse the appeal in all of these cases.
- 4.21 At 1st January 2011, there were six (6) cases at the Appeal Commissioners stage and during the year sixteen (16) appeals were admitted as the individuals properly invoked their right of appeal in accordance with the provisions of the Taxes Acts. The Appeal Commissioners determined the tax appeals in seven (7) cases by confirming the assessments made by the Bureau whilst nine (9) individuals withdrew their appeals prior to hearing by the Appeal Commissioner. As of 31st December 2011, six (6) appeals awaited hearing before the Appeal Commissioners.
- 4.22 At the 1st January 2011, there were two (2) cases at the Circuit Court stage and during the year five (5) individuals appealed the determination of the Appeal Commissioners to the Circuit Court. The Judge of the Circuit Court determined the tax appeal in one (1) case by confirming the assessments made by the Bureau, whilst one (1) individual withdrew the appeal before the Circuit Court. At the 31st December 2011, there were five (5) cases at various stages in the Circuit Court appeals process.

- 4.23 During the year two (2) individuals expressed their dissatisfaction with the determination of the Appeal Commissioner and indicated their intention to state a case to the High Court.
- 4.24 The Bureau applied the enforcement procedures of the Taxes Acts (including the use of Attachment Orders) against the financial assets of tax defaulters and instituted High Court recovery proceedings in eleven (11) cases in the pursuit of taxes due.
- 4.25 The following Tables 5 to 12 inclusive give details of Revenue actions taken by the Bureau, including the amounts of taxes charged by assessment, demanded and collected or otherwise recovered and cases at the Appeal Commissioner and Circuit Court stage.

Table 5: Tax charged by assessment

<i>Description</i>	<i>€</i>
<i>Income Tax</i>	<i>10,385,769</i>
<i>Value Added Tax</i>	<i>620,650</i>
<i>Excise Duty</i>	<i>2,326,292</i>
<i>Capital Gains Tax</i>	<i>155,668</i>
<i>TOTAL</i>	<i>13,488,379</i>

Table 6: Tax and interest demanded

<i>Description</i>	<i>€</i>
<i>Income Tax</i>	<i>11,260,050</i>
<i>Value Added Tax</i>	<i>785,473</i>
<i>PAYE/PRSI</i>	<i>11,846</i>
<i>Capital Gains Tax</i>	<i>294,606</i>
<i>TOTAL</i>	<i>12,351,975</i>

Table 7: Tax and interest collected

<i>Description</i>	<i>€</i>
<i>Income Tax</i>	<i>3,613,973</i>
<i>Capital Gains Tax</i>	<i>2,876</i>
<i>Value Added Tax</i>	<i>6,293</i>
<i>Stamp Duty</i>	<i>149,518</i>
<i>Vehicle Registration Tax</i>	<i>32,207</i>
<i>TOTAL</i>	<i>3,804,867</i>

Table 8:- High Court proceedings instituted for recovery of tax and interest

	<i>No. of cases</i>	€
Total	11	17,929,872

Table 9:-Tax and interest recovered using Revenue Powers of Attachment

	<i>No. of cases</i>	€
Total	12	358,478

Table 10:-Outcome of Appeals refused by Bureau

<i>Description</i>	<i>No. of cases</i>
<i>Appeals refused by Inspector in 2011</i>	8
<i>No. of refusals not appealed</i>	3
<i>Refusals by Inspector appealed to Appeal Commissioner</i>	5
<i>Appeal(s) carried forward at 1/1/2011</i>	1
<i>Bureau decision upheld by Appeal Commissioner</i>	6
<i>Appeals on hand at 31/12/2011</i>	0

Table 11:-Outcome of Appeals at Appeal Commissioner Stage

<i>Description</i>	<i>No. of cases</i>
<i>Cases at appeal stage at 1/1/2011</i>	6*
<i>Appeals properly invoked in 2011</i>	16
<i>Appeals determined by Appeal Commissioner</i>	7
<i>Appeals withdrawn</i>	9
<i>Cases at appeal stage 31/12/2011</i>	6

* The addition of one case over the 2010 closing figure arises from the re-activation of a historic appeal from 2003.

Table 12:-Outcome of Circuit Court Appeals

<i>Description</i>	<i>No. of cases</i>
<i>Cases on hand at 1/1/2011</i>	2
<i>Appeal Commissioner decision appealed to Circuit Court</i>	5
<i>Appeal determined by Circuit Court Judge</i>	1
<i>Appeals withdrawn</i>	1
<i>Cases on hand at 31/12/2011</i>	5

4.26 In addition to the €3,804,867 million collected under the Revenue remit of the Bureau as set out in Table 7 above, one (1) Bureau investigation resulted in the seizure and forfeiture to the State of a Range Rover Discovery motor vehicle valued in excess of €82,000 under the provisions of the Finance Act 2001.

SOCIAL WELFARE ACTIONS

4.27 The Bureau also takes action under the Social Welfare Acts pursuant to its functions as set out in Section 5 of the Act. Arising from investigations by Bureau Officers, action pursuant to the Social Welfare remit of the Bureau was taken against one hundred and twenty (120) persons. A number of Social Welfare payments were terminated or reduced, resulting in savings to the Exchequer as set out at Table 13 below.

Table 13:- Social Welfare savings by scheme type

Scheme Type	€
Jobseeker's Allowance	85,956.00
One Parent Family Payment	276,420.00
Disability Allowance	143,785.80
Carer's Allowance	110,350.20
Total	616,512.00

4.28 There were eighteen (18) appeals lodged with the Chief Appeals Officer against decisions made by Social Welfare Bureau Officers. The Chief Appeals Officer certified that the ordinary appeals procedure was inadequate to secure the effective processing of these appeals and directed that the appellants submit their appeals to the Circuit Civil Court. Three (3) appeals were withdrawn, ten (10) appellants did not proceed with their appeals (not lodging them in the Circuit Court as directed by the Chief Appeals Officer) and five (5) were ongoing as of 31st December 2011.

4.29 Of the five (5) appeal cases carried over from 2010 and one (1) from 2009, three (3) cases were heard before the Circuit Civil Court and the decisions made by the Social Welfare Bureau Officers were upheld. One (1) case did not proceed to Court and that appeal is deemed closed. In two (2) cases a decision had not been given as of 31st December 2011.

4.30 Arising from Bureau investigations, Social Welfare overpayments were identified and assessed, details of which are set out in Table 14 below.

Table 14:- Social Welfare overpayments by scheme type

Scheme Type	€
Jobseeker's Allowance	765,242.48
One Parent Family Payment	400,648.83
Disability Allowance	314,258.75
Carer's Allowance	51,392.50
Total	1,531,542.56

4.31 The recovery of monies as per Table 15 below was effected by repayments, instalments and deductions from current entitlements.

Table 15:- Social Welfare recovery of monies by scheme type

Scheme Type	€
Jobseeker's Allowance	343,587.36
One Parent Family Payment	60,819.50
Disability Allowance	42,870.63
Carer's Allowance	2,600.00
State Pension Non-Contributory	4,160.00
Total	454,037.49

4.32 The Bureau instituted High Court Summary Summons Recovery proceedings with a view to recovering amounts overpaid in one (1) case as per Table 16 below.

Table 16:- High Court proceedings instituted for recovery of amounts overpaid

	<i>No. of cases</i>	€
<i>Total</i>	<i>1</i>	23,526.50

OTHER INVESTIGATIONS

- 4.33 Arising from investigations conducted by the Bureau pursuant to its statutory remit, evidence of suspected breaches of criminal offences was uncovered and, as a result, a number of persons were arrested and files were prepared seeking the directions of the Director of Public Prosecutions (hereinafter referred to as the DPP) and a number of criminal prosecutions ensued.
- 4.34 Three (3) individuals were arrested for suspected revenue offences contrary to Section 1078 of the Taxes Consolidation Act 1997. One (1) file was forwarded to the DPP and directions are awaited. In the two (2) remaining cases, files are currently being prepared for submission to the DPP. Two (2) individuals were arrested for suspected revenue offences contrary to Section 1078 of the Taxes Consolidation Act 1997. In one (1) case, a file was submitted to the DPP who directed charges which are currently before the Circuit Criminal Court. One (1) individual who was arrested during 2010 was charged with offences contrary to Section 1078 of the Taxes Consolidation Act 1997 and is currently before the Circuit Criminal Court. The case against the second individual remains pending.
- 4.35 As reported in the 2010 Annual Report, one (1) individual had pleaded guilty to breaches of Section 1078 of the Taxes Consolidation Act 1997. During 2011, this person received a two year suspended sentence before the Circuit Criminal Court.
- 4.36 In addition, in 2011 one (1) individual who had been charged with offences contrary to Section 1078 of the Taxes Consolidation Act in 2007 was convicted and fined €4,170.
- 4.37 As reported in the 2010 Annual Report, two (2) individuals were arrested in respect of suspected breaches of the Criminal Justice (Theft and Fraud Offences) Act 2001 relating to suspected fraudulent claims for Social Welfare. In respect of these, one (1) file was forwarded to the DPP in 2010 and in 2011, the DPP directed no prosecution. In respect of the second individual, further investigations were conducted and a file is currently being prepared for submission to the DPP.

- 4.38 As reported in the 2010 Annual Report, one (1) individual was charged with forty eight (48) offences contrary to the provisions of the Social Welfare Consolidation Act 2005 and Criminal Justice (Theft and Fraud Offences) Act 2001. In 2011, this individual was sent forward to the Circuit Criminal Court for trial.
- 4.39 Arising from two separate investigations conducted in 2011, Criminal Assets Bureau Officers arrested two (2) individuals for suspected offences contrary to Section 13 of the Act relating to alleged intimidation and threats to Bureau Officers. In both cases, files were submitted to the DPP. As of 31/12/2011, following directions from the DPP, one (1) person was charged and brought before the District Court and directions were awaited in respect of the second individual.
- 4.40 As reported in the 2010 Annual Report, the Bureau was preparing two (2) files for submission to the DPP in respect of suspected money laundering offences contrary to the provisions of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. Files were submitted to the DPP who directed no prosecution in both cases.
- 4.41 As reported in the 2010 Annual Report, six (6) individuals were charged with offences contrary to Section 1(2) of the Public Bodies Corrupt Practices Act, 1889 as amended by Section 4(2) of the Prevention of Corruption Act 1916 and Section 38 of the Ethics in Public Office Act 1995. Due to the death of one (1) of the individuals concerned, five (5) of these cases remain before the Courts. Two (2) individuals brought appeals before the High Court which were heard during 2011. Both appeals were unsuccessful. In both cases, appeals of the High Court decision were taken to the Supreme Court. In 2011, the Supreme Court heard one (1) of these appeals and judgement was awaited. In respect of the second Supreme Court appeal, a hearing date was awaited. All five (5) criminal prosecutions remain adjourned before the Circuit Criminal Court until after the decisions of the Supreme Court appeals.
- 4.42 In the 2009 and the 2010 Annual Reports, the Bureau reported that as a result of Operation Tie, an investigation into VRT irregularities, four (4) individuals were charged and sent forward to the Circuit Criminal Court for trial. One (1) individual brought Judicial Review proceedings which were subsequently withdrawn in 2010. During 2011, one (1) individual pleaded guilty to the charges and was sentenced to three (3) years imprisonment. Two (2) years of this three year sentence were

suspended. In the Circuit Criminal Court one (1) individual was convicted following a full trial of the matter. He was sentenced to one (1) year imprisonment which was suspended and was fined €12,700. In respect of the remaining two (2) individuals, their cases are listed for hearing during 2012.

Chapter 5

5. LITIGATION AND CASE LAW

GENERAL

- 5.1 In 2011, the Bureau focused on reviewing and bringing many of the older proceeds of crime cases, initiated by the Bureau in previous years, to a final conclusion. This resulted in twenty three (23) orders being obtained under Section 4 and 4A of the PoC Act and resulted in excess of €2.7 million being forwarded to the Minister for Finance and the Minister for Public Expenditure and Reform.
- 5.2 A further twelve (12) older cases, where Section 3 Orders have been in place for in excess of seven (7) years have been prepared for advancement under the PoC Act. In each of these cases, applications under Section 4 of the PoC Act will be made subject to resources within the Chief State Solicitor's Office.

SIGNIFICANT JUDGEMENTS

- 5.3 **Criminal Assets Bureau –v- Routeback Media and Harry Zeman: Feeney J.: 20th January 2011.**

This case involved computer fraud, whereby the Second Named Respondent, based in Sweden, entered into a contract with a financial service provider based in Ireland, to provide credit card processing and related services. Within a few days there were approximately 90,000 credit card transactions. The Bank suspected fraud, suspended business and retained the funds. The Bureau, with assistance provided by their Swedish colleagues, sought an application under Section 3 and 7 of the PoC Act on the basis that the transactions constituted deception. The Court did not have to consider whether there was “correspondence of offence” between Sweden and Ireland as it was satisfied the ingredients of the offence occurred in this jurisdiction. The Court, in concluding the property was the proceeds of crime, relied *inter alia* on expert opinion evidence from a Bureau Forensic Analyst following the investigation and analysis of all relevant internet databases. A Section 3 Order was granted, deeming some €700,000 to be the proceeds of crime.

5.4 **Murphy –v- John Gilligan and Others:**

Significant litigation was concluded in this case in the course of the following three Judgements:

(i) Judgement Feeney J.: 27th January 2011 (Section 3(3) application of the PoC Act)

The Court dismissed claims by John Gilligan, Geraldine Gilligan and Darren Gilligan, brought pursuant to Section 3(3) of the PoC Act that the property, already the subject of a Section 3 Order, was not the proceeds of crime. It was clarified that the property was acquired from income legitimately earned through various sources, including successful gambling and other investments. In respect of a 3(3) application brought by Tracey Gilligan, the Judge, however, varied the Section 3 Order, insofar as it related to a property at Lucan, Co. Dublin taking into account the sum of IR£10,000 which had been given to her by a third party.

The Court, in arriving at its conclusion, addressed a number of legal points, all of which had been dealt with before by various Courts including the following –

- The words “causes injustice” in Section 3(3) only applies to the present position and this provision cannot be used as a form of review of the initial grant of the Section 3 Order.
- The Section 3 Order has been held by the Supreme Court to have been appropriately granted, and remains in force.
- The Respondents are permitted to make a submission on the facts to seek to prove that the property is not the proceeds of crime, pursuant to Section 3(3).
- The standard of proof required is that applicable to civil proceedings.
- The Court can either discharge the Order or, if appropriate, vary the Section 3 Order to a limited degree.

- The Bureau does not have to prove a direct link between specific offences and the proceeds of crime.
- The Respondents cannot seek to rely on any claim of prejudice by delays since it is their application and this is the first time that they choose to bring it, some 13 years after the granting of a Section 3 Order.

(ii) Judgement of Feeney J.: 20th of December 2011 (Section 4 application of the PoC Act)

This was the first contested application taken by the Bureau pursuant to Section 4, and the Court took the opportunity to define many of the relevant issues.

- It is clear that the effect of a Section 3 Order is to freeze the interest of the property and anyone claiming an interest in it.
- The findings of a Judgement, already given in relation to Section 3(3) relating to the Defendant's application that the property is not the proceeds of crime, cannot be reviewed or revisited in the course of the Section 4 application.
- A Section 4 Order is not, in any normal sense, an Order of forfeiture as there is no element of a Respondent losing or giving up something as a penalty or of something being taken as a penalty for an offence. The grant of a Disposal Order under Section 4 is not in the true or proper sense a penalty or forfeiture. The taking of property under the PoC Act is not and cannot be equated with a punishment.
- Section 11(7) of the Statute of Limitations Act 1957 does not apply as, following examination of the legislative history, this provision only applies to actions by common informers or actions for penalties or forfeitures and accordingly do not apply to the PoC Act. Even if this was not the case, the action can only accrue once a Section 3 Order has been in place for seven years, and therefore the limitation period only starts to run after the passing of the seven years.

- The PoC Act is a unique piece of legislation and there is a danger of driving up a blind alley if, when interpreting any particular section of the PoC Act, attempts are made to find analogies in other legislation.
- The issue of “injustice” pursuant to Section 4(8) of the PoC Act relates only to any additional facts which have come into being since the determination of the Section 3(3) hearing.

(iii) Judgement of Feeney J.: 20th of December 2011 - Convention Points.

The Judgement made a number of findings in respect of the impact of the European Convention on Human Rights Act 2003.

- (i) A party to litigation in an Irish Court must identify an exact and precise basis for a claim under the European Convention on Human Rights Act 2003 and cannot seek to rely on a Convention in a broad, general or an identified term.
- (ii) The 2003 Act does not operate retrospectively and does not apply to past events or to pending litigation.
- (iii) The argument that the Section 3(3) hearing and Section 4 hearing occurred after the 2003 Act, and therefore could be considered within that Act is fallacious. The matters and events in respect of which the Plaintiff’s complain had already occurred or were already in being and the litigation under the PoC Act in which a Section 3 Order was made had already taken place.
- (iv) Article 7(1) of the Convention which prohibits retrospectivity in the creation of a criminal offence or increasing the penalty of a standard criminal offence does not apply as the Supreme Court has already determined the PoC Act does not create a criminal offence.
- (v) Proceedings under the PoC Act of 1996 are civil both for the purposes of Article 6 and Article 7 of the Convention. The scheme of the PoC Act for the preservation and, where appropriate, the disposal of proceeds of crime are not penal in character and do not engage either Article 6 or 7 of the Convention as they are clearly civil proceedings. Considering whether the PoC Act was in breach of property rights protected under the Convention the Court made the following point:

- (a) The procedure safeguards provided in the PoC Act result in a conclusion that Article 6 rights are not infringed.
- (b) No provision of the legislation is unclear. John Gilligan knew from 1997 that he could make an application under Section 3(3).
- (c) Any delay was his delay.
- (d) It is not incompatible with the notion of a fair hearing in criminal proceedings to place the onus on each applicant to give a credible account of their current financial situation. In each case, having been proved to have being involved in extensive and lucrative drug dealing over a period of years, it is not unreasonable to expect the applicants to explain what has happened to all the money shown to have been in their possession, any more than it was unreasonable at the first stage of the procedure to expect them to show the legitimacy of the source of such money or assets. Such matters fell within the applicant's particular knowledge and the burden on each of them would not have been difficult to meet if their accounts of their financial affairs had been true.

5.5 **CAB –v- Andrew and Ellen Wall: Judgement of Feeney J.: 1st June 2011**

Mr. Justice Feeney having heard the Respondent's claim that the property including a family home was legitimately obtained, dismissed this claim and granted an Order pursuant to Section 3 declaring *inter alia* the property to be the proceeds of crime. He adjourned an application by the Bureau to appoint a Receiver and granted a stay pending the Supreme Court appeal. In the course of this year, the Bureau sought to have this matter reopened as Respondents were not progressing their appeal with the necessary expedition and there was a significant concern that the property was uninsured. The Court appointed the Receiver to take possession of the property, insure and let it, but refused a power of sale. The Receiver has since taken possession of the property. This is an extension of the use of the remedy of Receiverships in proceeds of crime related cases.

5.6 **McKenna –v- H. and H.: Supreme Court: Denham J.: 25th March 2011**

This was an appeal by a spouse against an Order made pursuant to Section 4 of the PoC Act forfeiting a family home. The Supreme Court dismissed the appeal and

affirmed the Order under Section 4 on the basis of the legal findings of the High Court Judge. These findings included:

1. While the Court must be sensitive to any legitimate property interests any person may have in a property, it must also have regard to the policy interest of the State in ensuring that the proceeds of crime accrue as a benefit of no person.
2. In the absence of any indication of a legitimate contribution by the spouse into the property, the State has a greater interest in the disposal of the property which is proved to be the proceeds of crime.
3. Article 8 of the European Convention on Human Rights while it does protect legitimate interests in a family home, permits delimitation on such a right in the interest of good governance. The policy behind the PoC Act constitutes such.

This Judgement affects a number of cases which are currently under appeal on this point.

5.7 **REVIEW OF LEGISLATION**

The committee established by the Department of Justice & Equality in 2010 met during the course of 2011. The committee considered proposals submitted by the Bureau on the operation of the proceeds of crime legislation and related matters, with a view towards introducing improvements in the current statutory framework. The proposals remain under consideration at this time.

CHAPTER 6

6. *INTERNATIONAL DEVELOPMENTS*

- 6.1 The Bureau and the legislation underpinning it, continues to attract the interest of law enforcement and judicial authorities internationally. In addition, the strategy employed by the Bureau and the pursuit of its statutory remit remains of interest to many observers internationally.
- 6.2 During the course of 2011, the Bureau received delegations and working groups from the following countries: Australia, Belgium, Germany, Luxembourg, Slovenia, the United Kingdom and Northern Ireland. Bureau Officers, following invitations from law enforcement agencies and other bodies, also attended and made presentations at a number of international conferences in setting out details of the strategy adopted by the Bureau and its operational approach generally.
- 6.3 The Bureau hosted the Forensic Accountants in Law Enforcement Forum in June 2011. The Forum provides a platform for the sharing of methodologies and experiences between Forensic Accountants in Law Enforcement. Forum members consist of accountants who work in law enforcement in England, Scotland, Wales, Northern Ireland and the Republic of Ireland. Delegates from a wide range of law enforcement agencies attended, including the London Metropolitan Police, West Yorkshire Police, Serious Organised Crime Agency (S.O.C.A), Scottish Civil Recovery Unit, Her Majesty's Revenue and Customs (HMRC), The Office of the Revenue Commissioners, Office of the Director of Corporate Enforcement (O.D.C.E), Garda Bureau of Fraud Investigation and hosts, the Bureau.
- 6.4 In 2011, the Bureau continued its function as the designated Asset Recovery Office (ARO) for the Republic of Ireland, dealing with requests for information and co-operation regarding the identification and seizure of assets linked to criminal conduct received from within the EU. There are now twenty seven (27) AROs established in twenty two (22) Member States. The Bureau was represented at two (2) ARO Platform meetings held in Brussels. The Bureau has continued to utilise the AROs in Member States to progress its own investigations and wherever possible, assisting other jurisdictions in targeting the proceeds of criminal conduct.

- 6.5 During the course of 2011, the Bureau participated in the Council of the European Union Evaluation of Ireland conducted under the auspices of the 5th Round of Mutual Evaluations by a group of experts. The topic of the evaluation was “financial crime and financial investigation” and the evaluation also concentrated on the improvement of the operational framework for confiscating and seizing the proceeds of crime. The Bureau assisted the Department of Justice and Equality and other law enforcement agencies in Ireland in preparing questionnaires and meeting with the evaluation experts.
- 6.6 During the course of 2011, the Department of Foreign Affairs requested the Bureau to assist them in respect of Ireland's Chairmanship of the “Organisation for Security and Co-operation in Europe (OSCE)” in 2012. It is the intention of the group to highlight the work of the Bureau as a model that might be considered by other OSCE participating States during the course of their 2012 Chairmanship. Criminal Assets Bureau officers provided briefing to officers from the OSCE Taskforce in Dublin and the OSCE Mission in Vienna in preparation for the 2012 Chairmanship.
- 6.7 As reported in 2010, one (1) member of the Bureau took part in an EU funded training programme hosted by Spain under the CEART Programme (Centre of Excellence on Assets Recovery and Training Programme). The member attending this course continued his studies with this programme during 2011.
- 6.8 **Camden Assets Recovery Inter-agency Network (CARIN)**
The Bureau continued to be involved in the Camden Assets Recovery Inter-agency Network (CARIN) and attended the Annual Conference which was held in September 2011 in Sofia, Bulgaria. The Conference focused on communication and co-operation between all agencies involved in asset tracing and confiscation, together with the training of investigators. Other important topics covered at the Conference included the establishment of an EU wide database of outstanding Confiscation Orders relating to assets, the establishment of Central Registers of Bank Accounts and the rights of victims to recover assets.
- 6.9 The Bureau remained on the CARIN Steering Committee and was elected to hold the Presidency for 2013. In order to carry out its functions under the Presidency, the Bureau made an application to the European Commission for funding under the ISEC

Programme to assist with running the Presidency of the Group and the organisation of the conference which is scheduled to be held in Ireland in 2013, to co-inside with Ireland's Presidency of the EU.

- 6.10 The Bureau, through CARIN, continues to seek to have non-conviction based forfeiture orders, similar to Orders pursuant to Section 3 of the PoC Act, recognised and enforced against properties situated in other Member States.

CO-OPERATION WITH THE AUTHORITIES IN THE UNITED KINGDOM

- 6.11 The Bureau continued to work in close co-operation with all law enforcement authorities in Northern Ireland and the United Kingdom in progressing investigations of a cross border and international nature.

- 6.12 The Bureau also participated in the Organised Crime Cross-Border Co-operation Seminar held in Laytown, Co. Meath, Ireland, the purpose of which was to identify new crime trends and to agree on areas of co-operation between the law enforcement authorities on both sides of the Border. A number of areas were highlighted for attention including the suspected use of monies service bureaux by criminals, cyber crime, cannabis grow houses and alcohol fraud along the Border.

6.13 **Cross Border Fuel Group**

The Bureau continued to participate in the Cross Border Fuel Group and attended regular meetings. The Bureau along with SOCA, HMRC and PSNI continued to focus its attention on the activities of individuals who are suspected of being involved in fuel smuggling and fuel laundering and has resulted in a number of actions pursuant to the statutory remit of the Bureau in this area, including the service of substantial revenue assessments on individuals operating on a cross border basis, identified by the Working Group.

- 6.14 During the course of 2011, the Group liaised with the Environmental Protection Agency and the Northern Ireland Environment Agency in relation to matters concerning the persons responsible for the illegal dumping of waste product of fuel laundering (sludge, etc) along the Border.

6.15 **Cross Border Tobacco Fraud Enforcement Group**

During 2011, the Bureau continued to participate in the Cross Border Tobacco Fraud Enforcement Group which was established in 2010. This Group includes representatives from the Bureau, An Garda Síochána, Irish Customs, PSNI, SOCA, HMRC and the UK Border Agency. The group focused on Organised Crime Groups involved in the smuggling of cigarettes and tobacco. This resulted in a number of individuals and groups being investigated pursuant to the statutory remit of the Bureau who are suspected of being involved in criminal conduct in this area.

6.16 As a result of the identification of an organised crime group suspected of involvement in fuel laundry and the smuggling of cigarettes by the Cross Border Tobacco Fraud Enforcement Group, a multi-agency investigation commenced. The Bureau assisted the Organised Crime Unit, National Support Services, Office of the Revenue Commissioners, HM Revenue and Customs (HMRC), Police Service of Northern Ireland (PSNI) and local Divisional Officers in targeting this group and a fuel laundering facility in the Border region was identified and targeted. This investigation resulted in the seizure of a sophisticated fuel laundering plant and closure of five (5) retail garages in the Republic of Ireland. Investigations and resulting actions were continuing as of 31/12/2011, pursuant to the statutory remit of the Bureau and files were being prepared for submission to the DPP.

Chapter 7

7. CONCLUSION

- 7.1 Throughout the year, the Bureau continued to pursue its statutory remit and wherever possible, target the proceeds of criminal conduct, utilising the provisions of the Proceeds of Crime, Revenue and Social Welfare legislation, wherever appropriate. The provisions which empower the Bureau to utilise a multi-agency, multi-disciplinary approach were fully invoked in this regard.
- 7.2 The Bureau targeted assets deriving from a variety of suspected criminal conduct including drug trafficking, fraud, theft, the laundry and smuggling of fuel, and the illegal tobacco trade. A variety of assets were target by the Bureau including cash, funds in bank accounts, property (including residential, commercial and holiday homes), motor vehicles, bonds, jewellery and a boat. The investigations conducted by the Bureau and the consequential proceedings and actions resulted in sums in excess of €2.7million being forwarded to the exchequer under the Proceeds of Crime legislation, in excess of €3.8million taxes being collected and in excess of €450,000 of Social Welfare overpayments being recovered, the details of which are provided at Chapter 4 of this report.
- 7.3 In the course of the year, the Bureau concentrated on the progression of a number of long standing cases before the Court under the Proceeds of Crime legislation, resulting in twenty three (23) cases being finalised.
- 7.4 During the course of 2011, the Bureau conducted a number of investigations into assets deriving from substantial frauds and thefts. These investigations not only resulted in the recovery of substantial sums of money comprising the proceeds of crime, but it also resulted in identifying funds from which the victims of crime may recover losses in a number of cases.
- 7.5 The Bureau during 2011, focused on significant abuse of the Social Welfare system and increased its secondment of officers from the Department of Social Protection. This resulted in an increase in the recovery of monies from Social Welfare fraud and the referral of cases to the DPP for consideration of prosecutions in this area.

- 7.6 Internationally, the Bureau continued to liaise with, and where appropriate, conduct investigations in parallel with law enforcement and judicial authorities throughout Europe and worldwide in targeting assets deriving from suspected criminal conduct. The Bureau continued to develop its relationship with Interpol, Europol and the Camden Assets Recovery Inter-agency Network (CARIN) and continued to be the designated Asset Recovery Office (ARO) in Ireland. The Bureau continued to work on the steering committee of CARIN and actively participated in the annual conference of the group which was held in Bulgaria in September.
- 7.7 The effects of the economic downturn, as commented upon in the 2010 Criminal Assets Bureau Annual Report, remain. However, the Bureau continues to develop strategies to ensure that wherever possible assets are targeted, in liaison with financial institutions where appropriate, so that suspected criminals are deprived or denied of the benefits of assets or gains from criminal conduct.
- 7.8 As has been noted in prior reports, one (1) of the Solicitors assigned to the Chief State Solicitor's Unit has not been replaced. This has generated a backlog of work and this has contributed to a reduction of the number of new cases which could be brought in the course of the year. The Bureau, in consultation with the Chief State Solicitor, has prepared a business plan seeking replacement staff in order to address this backlog and improve productivity within the Bureau.
- 7.9 In pursuing its objectives, the Bureau liaised closely with An Garda Síochána, The Revenue Commissioners, The Department of Social Protection and the Department of Justice and Equality in developing a coherent strategy to target the assets and profits deriving from criminal conduct. This strategy is considered an effective tool in the overall fight against organised crime.

Appendix 1

OBJECTIVES OF THE BUREAU

Section 4 of the Criminal Assets Bureau Act 1996 as amended by the Proceeds of Crime (Amendment) Act 2005

4.—Subject to the provisions of this Act, the objectives of the Bureau shall be—

- (a) the identification of the assets, wherever situated, of persons which derive or are suspected to derive, directly or indirectly, from criminal conduct,
- (b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
- (c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).

FUNCTIONS OF THE BUREAU

Section 5 of the Criminal Assets Bureau Act 1996 as amended by the Proceeds of Crime (Amendment) Act 2005 –

5.—(1) Without prejudice to the generality of Section 4, the functions of the Bureau, operating through its Bureau Officers, shall be the taking of all necessary actions—

- (a) in accordance with Garda functions, for the purposes of, the confiscation, restraint of use, freezing, preservation or seizure of assets identified as deriving, or suspected to derive, directly or indirectly, from criminal conduct,
- (b) under the Revenue Acts or any provision of any other enactment, whether passed before or after the passing of this Act, which relates to revenue, to ensure that the proceeds of criminal conduct or suspected criminal conduct are subjected to tax and that the Revenue Acts, where appropriate, are fully applied in relation to such proceeds or conduct, as the case may be,
- (c) under the Social Welfare Acts for the investigation and determination, as appropriate, of any claim for or in respect of benefit (within the meaning of Section 204 of the Social Welfare (Consolidation) Act, 1993) by any person engaged in criminal conduct, and
- (d) at the request of the Minister for Social Welfare, to investigate and determine, as appropriate, any claim for or in respect of a benefit, within the meaning of Section 204 of the Social Welfare (Consolidation) Act, 1993, where the Minister for Social Welfare certifies that there are reasonable grounds for believing that, in the case of a particular investigation, Officers of the Minister for Social Welfare may be subject to threats or other forms of intimidation,

and such actions include, where appropriate, subject to any international agreement, co-operation with any police force, or any authority, being an authority with functions related to the recovery of proceeds of crime, a tax authority or social security authority, of a territory or state other than the State.

(2) In relation to the matters referred to in subsection (1), nothing in this Act shall be construed as affecting or restricting in any way—

- (a) the powers or duties of the Garda Síochána, the Revenue Commissioners or the Minister for Social Welfare, or
- (b) the functions of the Attorney General, the Director of Public Prosecutions or the Chief State Solicitor.



**AN BIÚRÓ UM SHÓCMHAINNÍ
COIRIÚLA**

TUARASCÁIL BHLIANTÚIL 2011

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An Garda Síochána

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A Aire, a chara,

I gcomhréir le téarmaí Alt 21 den Acht fán mBiúró um Shócmhainní Coiriúla, 1996, is deas liom a chur i do láthair Tuarascáil Bhliantúil 2011 an Bhiúró um Shócmhainní Coiriúla.

Tugtar breac-chuntas sa tuarascáil ar ghníomhaíochtaí an Bhiúró le linn chúrsa 2011 agus iad sa tóir ar a sainchúram reachtúil, gníomhartha a thug an Biúró leo faoi fháltais choireachta a mhionsonrú, reachtaíocht ioncaim agus leasa shóisialaigh agus sprioc rathúil a dhéanamh d'fháltais amhrasacha iompair choiriúil. Léiríonn an tuarascáil go bhfuil an Biúró fós ina gcuid lárnach den fhreagairt um fhorfheidhmiú dlí ar iompar coiriúil in Éirinn.

Thug an Biúró méadú faoi deara ar na cásanna lenar bhain calaois agus gadaíocht mar aon le gníomhartha a thug an Biúró i leith sócmhainní a eascraíonn ón saghas seo iompair choiriúil. Baineann tábhacht, ina leith seo, leis an bhforbairt as ar eascair sainaithint cistí as ar féidir le híospartaigh choireachta a gcaillteanas a aisghabháil. Le linn chúrsa 2011, d'éirigh leis an mBiúró sprioc a dhéanamh de líon cásanna de chalaois shuntasach i leith an chórais leasa shóisialaigh, as ar eascair aisghabháil ró-íocaíochtaí agus atreorú cásanna chuig an Stiúrthóir Ionchúiseamh Poiblí lena mbreithniú i leith ionchúiseamh.

Go hidirnáisiúnta, leanann an Biúró ag dul i dteagmháil agus ag tabhairt faoi imscrúduithe le húdaráis forfheidhmithe agus bhreithiúnacha ar fud na hEorpa agus an Domhain agus iad sa tóir ar shócmhainní atá díorthaithe ó iompar coiriúil. Leanann an Biúró le bheith ina mball gníomhach de Lónra Idirghníomhaireachta um Aisghabháil Sócmhainní Camden (CARIN)

agus lena n-éifeachtacht a choinneáil ar leibhéal idirnáisiúnta ag an Oifig shannta um Aisghabháil Sócmhainní (OAS) in Éirinn, agus leas a bhaint as na líonraí seo chun a gcuid cuspóirí a bhaint amach.

Agus iad ag iarraidh a gcuspóirí a bhaint amach, téann an Biúró i dteagmháil go dlúth leis an nGarda Síochána, na Coimisinéirí Ioncaim, an Roinn Coimirce Sóisialaí agus an Roinn Dlí agus Cirt agus le gach gníomhaireacht um fhorfheidhmiú dlí sa Stát chun straitéis comhtháite a fhorbairt chun sprioc a dhéanamh de shócmhainní agus de bhrabúis atá díorthaithe ó iompar coiriúil, agus go háirithe, coireacht eagraithe.

Is mise, le meas,



MARTIN CALLINAN
COIMISINÉIR
AN GHARDA SÍOCHÁNA

An 29 Meitheamh 2012

An Biúró um Shócmhainní Coiriúla

Ba cheart aon fhreagra ar an gcomhfhreagras seo a sheoladh ch

*Phríomh-Oifigeach an Bhiúró
An Biúró um Shócmhainní Coiriúla
An Garda Síochána
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Agus ba cheart an uimhir a leanas a lua:-

An 28 Meitheamh 2012

An Coimisinéir
An Garda Síochána
Ceannáras an Gharda
Páirc an Fhionnuisce
Baile Átha Cliath 8

A Choimisinéir, a chara,

Is cúis áthais dom an 16ú Tuarascáil Bhliantúil den Bhiúró um Shócmhainní Coiriúla don bhliain féilire 2011 a chur faoi do bhráid. Cuirtear an tuarascáil seo chugat le cur faoi bhráid an Aire Dlí agus Cirt, Comhionannais agus Cosanta, de bhun fhorálacha Alt 21 den Acht fán mBiúró um Shócmhainní Coiriúla, 1996.

Leagtar amach sa tuarascáil torthaí na hoibre faoinar thug an Biúró le linn na bliana agus iad ag tabhairt faoina sainchúram reachtúil agus sprioc a dhéanamh de shócmhainní coiriúla daoine a rabhtas in amhras orthu go raibh baint acu in iompar coiriúil. Le linn 2011, sa mhullach ar thabhairt faoi imscrúduithe nua, leag an Biúró béim nach beag ar dhiúscairt deiridh líon cásanna a bhí gan réiteach. D'eascair seo i gcomhthéacs an lín sraith imeachtaí inar baineadh amach nó ina bhfuil an tréimhse reachtúil seacht mbliana dá bhforáiltear faoin Acht um Fháltais ó Choireacht, 1996/2005 ag teacht aníos. Ar an iomlán, cuireadh fiche a trí (23) cás faoin reachtaíocht um fháltais ó choireacht i gcrích le linn na bliana, a thuill breis agus €2.7 milliún don státchiste. Le linn na bliana, tugadh sé (6) imeacht nua os comhair na hArd-Chúirte faoin reachtaíocht um fháltais ó choireacht. Glacadh tromlach na ngníomhartha seo i leith daoine a bhfuiltear in amhras orthu bheith i mbun gáinneáil drugaí. Sa mhullach air sin, glacadh gníomhartha i leith daoine a bhfuiltear in amhras orthu bheith bainteach i

bhfoirmeacha eile d'iompar coiriúil, ina measc, cionta calaoise agus calaois um infheistíocht bhréagach go háirithe. Anuas air sin, glacadh gníomhartha i leith daoine a bhí páirteach sa trádáil neamhcheadaithe i sciúradh breosla góchumtha agus i smuigleáil toitíní góchumtha.

Sa mhullach air sin, chuir an Biúró um Shócmhainní Coiriúla, agus leas á bhaint as forálacha soláthairtí Ioncaim, breis agus €3.8 milliún ar aghaidh chuig an Státchsite Láir agus d'aisghabháil siad breis agus €454,000 maidir le ró-íocaíochtaí faoi fhorálacha Leasa Shóisialaigh.

Amhail blianta roimhe seo, rinneadh straitéis an Bhiúró a chur i dtoll a chéile a mhéid agus ab fhéidir d'fhonn comhordú le Pleananna Póilíneachta an Gharda Síochána agus straitéisí na gCoimisinéirí Ioncaim agus na Roinn Coimirce Sóisialaí. Cé nach bhfuil an Biúró gafa go príomha in imscrúdú a dhéanamh ar chionta coiriúla, b'ann do thréanteagmháil le hOifig an Stiúrthóra Ionchúiseamh Poiblí, an Garda Síochána agus na Coimisinéirí Ioncaim maidir lena chinntiú go leantar na réitigh chuí maidir le hiompar coiriúil. Leagtar amach sa tuarascáil líon imscrúduithe coiriúla ar thug an Biúró fúthu le linn na bliana, agus bhí imeachtaí os comhair na gCúirteanna Cóiriúla mar thoradh ar roinnt díobh. Rinneadh Clár na bPróifíleoirí Rannacha um Shócmhainní Coiriúla a shíneadh agus rinneadh breis forbartha air i rith 2011. Is í bunaidhm na forbartha seo feabhas a chur ar éifeachtacht an Bhiúró trí oiliúint bhainteach a chur ar fáil do ghníomhaireachtaí comhghaolmhara. Ina theannta sin, tá sé ina aidhm acu a chinntiú go gcoimeádann an Biúró láithreach i ngach Rannóg den Gharda.

Tugadh méadú faoi deara in obair an Bhiúró in 2011 ar an líon imscrúduithe faoinar tugadh i gcomhoibriú le gníomhaireachtaí idirnáisiúnta imscrúdaithe. Mar thoradh air seo, baineadh amach roinnt ratha agus sprioc á déanamh d'fháltais choireachta iasachta agus anuas air sin, fáltais choireachta ón dlínse seo a chuaigh ar imirce thar lear. Tá líon imscrúduithe tábhachtacha sa chatagóir ar siúl ag an tráth seo. Leanann an Biúró le forbairt a dhéanamh ar a gcaidreamh le Interpol, Europol agus CARIN. Sa mhullach air sin, ar leibhéal idirnáisiúnta, leanann an Biúró le hionadaíocht a dhéanamh d'Éirinn ag ardáin na nOifigí um Aisghabháil Sócmhainní sa Bhruiséil.

Táim sásta a thabhairt le fios, le linn na bliana, go leanann an Biúró le tacaíocht den scoth a fháil ó bhaill den phobal. Léirítear seo tríd an gcaidreamh maith oibre leis na hInstitiúidí Airgeadais, na Comhlachtaí Cuntasaíochta agus na gníomhaireachtaí rialála eile laistigh den tír agus ó theagmháil dhíreach leis an bpobal. Ar an iomlán, is ionann i gcónaí príomhdhírú an Bhiúró, is é sin, chun sprioc a dhéanamh de choirpigh dháiríre eagraithe atá ag oibriú ar

leibhéal náisiúnta agus idirnáisiúnta. Déantar an chroíthosaíocht seo a mheaitseáil le beartas an Bhiúró chun tacú leis na hiarrachtaí a dhéantar chun iompar coiriúil a chomhrac ar leibhéal an phobail agus rinneadh breis feabhais a chur ar Chlár na bPróifíleoirí Rannacha mar chuid den iarracht le leanúint le feabhsúcháin ar leibhéal áitiúil.

Ba mhian liom a aithint, le buíochas, an tacaíocht agus an comhoibriú a tugadh don Bhiúró le linn na bliana, ag an nGarda Síochána, Oifig na gCoimisinéirí Ioncaim, an Roinn Coimirce Sóisialaí, an Roinn Dlí agus Cirt, an Roinn Airgeadais, Oifig an Ard-Aighne agus Oifig an Stiúrthóra Ionchúiseamh Poiblí. Ina theannta sin, ba mhian liom aitheantas a thabhairt, go háirithe, do thaithí agus do thiomantas na n-aturnaetha agus na foirne a leithdháileadh orainn ag an bPríomh-Atur na Stáit d'obair an Bhiúró. Anuas air sin, ba mhian liom an méid a chuir an Abhcóide a bhí fostaithe ag an mBiúró le cúrsaí a aithint.

Ar deireadh thiar, mar Phríomh-Oifigeach an Bhiúró, is mian liom an t-ardleibhéal gairmiúlachta, dúthrachta agus tiomantais a aithint a léirigh gach Oifigeach den Bhiúró agus an fhoireann den Bhiúró, ina measc, Oifigeach Dlí an Bhiúró, an pearsanra a tugadh ar iasacht dúinn ón Roinn Dlí agus Cirt, an Garda Síochána, an Roinn Coimirce Sóisialaí agus na Coimisinéirí Ioncaim.

Ar go leor bealaí, baintear amach an leibhéal tiomantais agus comhoibrithe idir foirne na gcomhlachtaí éagsúla stáit a léirítear ag an mBiúró agus sinn ag dul i ngleic le himscrúduithe an-dúshlánacha. Tá an leibhéal tiomantais seo i gcónaí ar cheann de na buntosca a choimeádann éifeachtacht an Bhiúró agus iad ag dul i ngleic leis na dúshláin a chuirtear rompu ar bhonn laethúil.

Is mise, le meas,



LEAS/ARD-CHEANNFORT

EUGENE CORCORAN

PRÍOMH-OIFIGEACH AN BHIÚRÓ

An 28 Meitheamh 2012

Sceideal na gCairteacha agus na dTáblaí

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An Biúró um Shócmhainní

Coiriúla

Tuarascáil Bhliantúil

2011

Caibidil 1

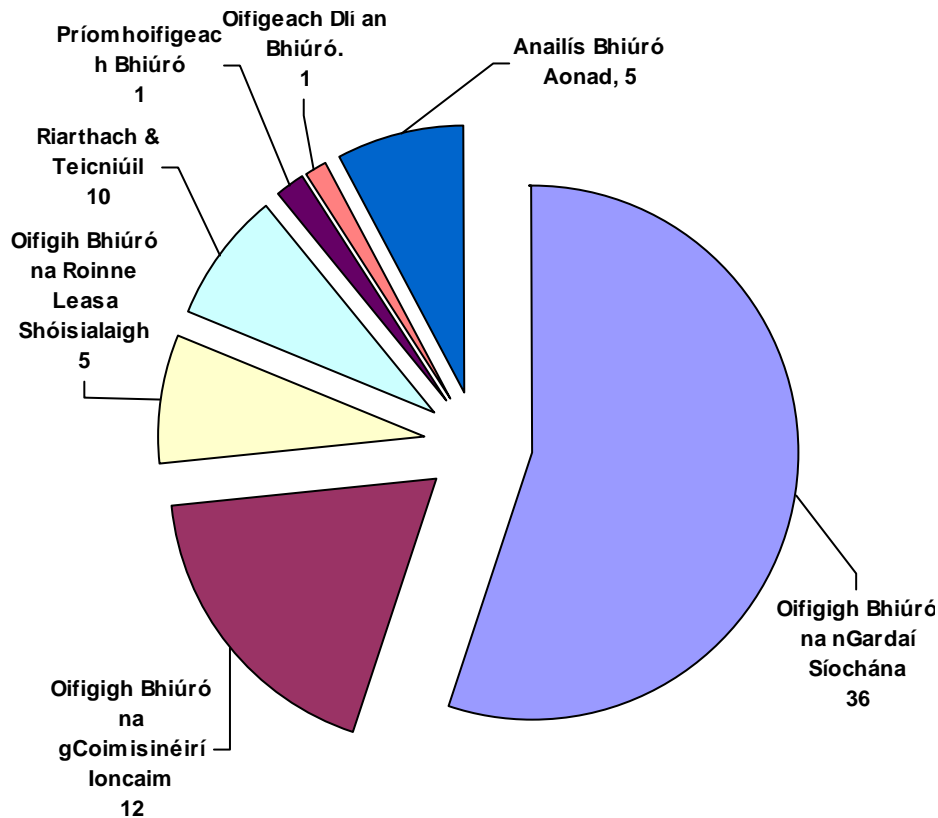
1. RÉAMHRÁ

- 1.1 Seo an séú Tuarascáil Bhliantúil déag ar ghníomhaíochtaí an Bhiúró um Shócmhainní Coiriúla (dá dtagraítear “an Biúró” ina dhiaidh seo) agus cuimsíonn sí an tréimhse ón 1 Eanáir 2011 go dtí an 31 Nollaig agus an dáta sin san áireamh.
- 1.2 Bunaíodh an Biúró i 1996 faoin Acht fán mBiúró um Shócmhainní Coiriúla, 1996 (dá dtagraítear “an tAcht” ina dhiaidh seo). Leasaíodh an tAcht ag an Acht um Fháiltas ó Choireacht (Leasú), 2005. Leagtar cuspóirí agus feidhmeanna reachtúla an Bhiúró amach in Ailt 4 agus 5 agus tá na hailt seo le fáil in Aguisín 1 den tuarascáil seo.
- 1.3 Cuireadh an tuarascáil seo i dtoll a chéile de bhun Alt 21 den Acht a cheanglaíonn ar an mBiúró tuarascáil maidir lena ngníomhaíochtaí i rith na bliana a chur i láthair an Aire Dlí agus Cirt, Comhionannais agus Cosanta, trí Choimisinéir an Gharda Síochána.

Caibidil 2

2. PEARSANRA

- 2.1 Tá foireann an Bhiúró comhdhéanta d'oifigigh ón nGarda Síochána, Oifig na gCoimisinéirí Ioncaim, an Roinn Coimirce Sóisialaí, an Roinn Dlí agus Cirt agus Oifigeach Dlí an Bhiúró.
- 2.2 B'ionann an líon iomlán foirne sa Bhiúró amhail an 31 Nollaig 2011 agus seachtó (70). Léiríonn an figiúr seo méadú beirt phearsanra (2) in 2011 thar an mbliain roimhe sin. Thug an Roinn Coimirce Sóisialaí Ard-Oifigeach Feidhmiúcháin (AOF) ar iasacht don Bhiúró chun cabhrú leis an ualach méadaithe oibre i limistéar an Leasa Shóisialaigh. Sa mhullach air sin, líon an Roinn Dlí agus Cirt folúntas Oifigeach Cléireachais a bhí folamh. Léirítear miondealú an tsoláthair foirne sa Bhiúró i gCairt 1 lastall:
- 2.3 Go stairiúil, shann an Príomh-Aturnae Stáit beirt (2) Aturnaetha, beirt (2) Feidhmeannach Dlí agus beirt (2) Oifigeach Cléireachais chun na seirbhísí riachtanacha um thacaíocht dlí a chur ar fáil don Bhiúró. Amhail a thuairiscítear i dTuarascáil Bhliantúil 2010 an Bhiúró um Shócmhainní Coiriúla, tar éis gur éirigh Aturnae as an obair in 2009, b'ann d'fholúntas. Níor líonadh an folúntas seo le linn chúrsa 2011. Leanann an Biúró lena n-iarrachtaí chun líon iomlán foirne a shannadh i bhfianaise na seirbhísí leanúnacha agus méadaithe dlí a theastaíonn ón mBiúró.



Cairt 1: Oifigh agus Foireann an Bhiúró

2.4 Lean Clár na bPróifíleoirí Rannacha um Shócmhainní Coiriúla le linn 2011. Is ionann an líon Próifíleoirí um Shócmhainní Coiriúla ar ar cuireadh oiliúint faoi láthair agus céad agus caoga a hocht (158), lena n-áirítear céad agus daichead a trí (143) Garda agus cúigear déag (15) Oifigeach de na Coimisinéirí Ioncaim atá ag plé le dualgais chustam agus mhál. Tá athbhreithniú á dhéanamh ar an gclár faoi láthair agus tá cúrsa breise oiliúna ar na bacáin le haghaidh 2012, a chuirfidh oiliúint ar fhiche a cúig (25) Próifíleoir sa bhreis. Is é ról na bPróifíleoirí Rannacha um Shócmhainní Coiriúla chun dul i dteagmháil agus cabhrú leis an mBhiúró i gcúrsa na n-imscrúduithe laistigh dá Rannóga agus dá Limistéir Gharda. Sa mhullach air sin, déanann Próifíleoirí um Shócmhainní Coiriúla próifílí a réiteach ar choirpigh atá ag oibriú laistigh dá limistéar oibriúcháin agus déanann siad iad a atreorú chuig an mBhiúró go ndéanfar breithniú ar ghníomhartha de bhun shainchúram reachtúil an Bhiúró.

Caibidil 3

3. AIRGEADAS

3.1 I gcaitheamh na bliana, chaith an Biúró airgead a sholáthair an tOireachtas dóibh tríd an Aire Dlí agus Cirt, Comhionannais agus Cosanta chun a bhfeidhmeanna reachtúla a chomhlíonadh agus chun a gcuaspóirí reachtúla a bhaint amach.

3.2 Chaith an Biúró €6,673 milliún faoi mar a mhiondealaítear é i dTábla 1 a leanas.

Tábla 1:- Cuntas don tréimhse an 1 Eanáir 2011 go dtí an 31 Nollaig 2011

<i>Airgead a sholáthair an tOireachtas</i>			6,673,000
<i>Caiteachas</i>	<i>Pá</i>	5,744,000	
	<i>Neamhphá</i>	929,000	
	<i>Iomlán</i>	6,673,000	6,673,000

3.3 Rinne an tArd-Reachtair Cuntas agus Ciste iniúchadh ar na méideanna seo ar fad, mar a fhoráiltear dó de réir Reachta.

Caibidil 4

4. GNÍOMHARTHA AG AN MBIÚRÓ

- 4.1 I rith na bliana, thug an Biúró faoi líon gníomhartha Cúirte agus gníomhartha eile seachas trí na Cúirteanna i bhfeidhmiú a gcuspóirí reachtúla. Leagtar amach seo sa tuarascáil seo sonraí faoi na gníomhartha atá faoi chaibidil, lena n-airítear na torthaí a bhain an Biúró amach i dtabhairt faoina ndualgais reachtúla chun sprioc a dhéanamh d'fháltais ó iompar coiriúil.
- 4.2 Cuimsíonn nádúr na ngníomhartha faoinar thug an Biúró réimse fairsing gníomhaíochtaí. Áirítear leo seo feidhmiú na gcumhachtaí faoin Reachtaíocht Ioncaim agus Leasa Shóisialaigh mar aon le húsáid cumhachtaí reachtúla a dheartar go sonrach lena n-úsáid ag baill den Bhiúró agus den Gharda Síochána.
- 4.3 Rinne an Biúró iarratais Chúirte, de bhun Ailt 14 agus 14A den Acht, chun Barántais Chuardaigh agus Orduithe Táirgthe a fháil a d'úsáid an Biúró chun fianaise a ardú i dtabhairt faoina gcuid imscrúduithe. Leagtar amach i dTábla 2 thíos an líon Barántas agus Orduithe a fuarthas.

Tábla 2:- Líon na mBarántas agus na nOrduithe

<i>Sainiú</i>	<i>Líon</i>
<i>Barántais Chuardaigh faoi Alt 14 den Acht</i>	<i>85</i>
<i>Orduithe chun ábhar a chur ar fáil faoi Alt 14A den Acht</i>	<i>237</i>

- 4.4 Bíonn imeachtaí os comhair na hArd-Chúirte mar thoradh ar chuid mhór d'obair an Bhiúró. Le linn 2011, chuir an Biúró tús le líon gníomhartha faoin Acht um Fháltais ó Choireacht, 1996 agus 2005 (dá dtagraítear “an tAcht FÓC” ina dhiaidh seo) agus faoi reachtaíocht eile. Sa mhullach air sin, teastaíonn acmhainní suntasacha d'fhonn gníomhartha a chur chun cinn ar cuireadh tús leo i mblianta roimhe seo.

GNÍOMHARTHA UM FHÁLTAIS Ó CHOIREACHT

- 4.5 Is gnách go gcuireann Príomh-Oifigeach an Bhiúró tús le himeachtaí faoi reachtaíocht um Fháлтаis ó Choireacht, nó an Biúró ina n-ainm féin, agus iarratas á dhéanamh ar an Ard-Chúirt faoi Alt 2 den Acht FÓC ina n-iarrtar ar Ordú Eatramhach, a chuireann toirmeasc ar dhéileáil le réadmhaoin má tá an Chúirt sásta, leis an gcaighdeán sibhialta cruthúnais, gur fáлтаis ó iompar coiriúil atá sa réadmhaoin sin agus go bhfuil luach nach lú ná €13,000 air.
- 4.6 Tar éis Ordú a dhéanamh faoi Alt 2 den Acht FÓC, ní mór don Bhiúró, d'fhonn an toirmeasc a choimeád i bhfeidhm, iarratas a dhéanamh ar an gCúirt chéanna laistigh d'fhiche a haon (21) lá le haghaidh Ordú faoi Alt 3 den Acht céanna. Má éiríonn leis an iarratas sin, déanfaidh an Ard-Chúirt Ordú Idirbhreitheach, a dhéanann an réadmhaoin a chalcadh go dtí go bhfaightear fógra breise. Féadfaidh an Chúirt an t-ordú calctha a dhíscaoileadh nó a éagsúlú ag aon tráth nuair a bhíonn siad sásta nach fáлтаis ó iompar coiriúil an réadmhaoin go léir nó cuid di nó ar chúiseanna eile a leagtar amach iad sa reachtaíocht.
- 4.7 Féadfar iarratas faoi Alt 3 a dhéanamh fiú nuair nach bhfuil Ordú faoi Alt 2 i bhfeidhm nó fiú nuair nár iarradh an t-ordú sin. Déantar iarratas le haghaidh Ordú faoi Alt 2 nuair is ann do bhuairt láithreach gur féidir leis an réadmhaoin a scaipeadh nó faoi chúinsí eile, lena n-áirítear, nuair ba cheart glacadóir a cheapadh chun a luach a chaomhnú.
- 4.8 A luaithe atá Ordú faoi Alt 2 nó 3 i bhfeidhm, is faoi dhuine atá sé a lorg go n-éagsúlaítear nó go gcuirtear ar leataobh an tOrdú calctha sin (Alt 2(3) nó Alt 3(3) den Acht FÓC), más féidir leis an duine sin an Chúirt a shásamh go bhfuil acu ceart dlísteanaigh i leith na réadmhaoine agus/nó murab fháлтаis ó iompar coiriúil an réadmhaoin sin.
- 4.9 Féadfaidh an Chúirt glacadóir a cheapadh faoi Alt 7 den Acht FÓC, cibé acu chun luach na réadmhaoine a chaomhnú nó chun an réadmhaoin a dhiúscairt atá faoi chalcadh cheana féin faoi Orduithe Alt 2 nó Alt 3. In 2011, fuair an Biúró ocht déag (18) Ordú Glacadóireachta. San uile chás, ba é Oifigeach Dlí an Bhiúró an Glacadóir a cheap an Chúirt. Is éard a bhí i gceist leis na cásanna seo gníomhartha i

leith réadmhaoine, airgead tirim, airgid a bhí á choinneáil i gcuntais bhainc, bannaí infheistíochta, mótarfheithiclí, teach soghluaiste agus seodra. I roinnt cásanna Glacadóireachta, rinne an Ard-Chúirt Orduithe le haghaidh sealbhú agus díola ag an nGlacadóir. Ní féidir Ordú Glacadóireachta a dhéanamh mura bhfuil Ordú Alt 2 nó Alt 3 i bhfeidhm cheana féin.

- 4.10 Déanann Alt 4 den Acht PÓF foráil le haghaidh Orduithe Diúscartha a dhéanamh inar féidir leis an Ard-Chúirt ordú a dhéanamh a aistríonn sócmhainní, a bhí á gcalcadh cheana féin faoi Ordú Alt 3 ar feadh seacht mbliana ar a laghad, don Aire Airgeadais agus don Aire Caiteachais Phoiblí agus Athchóirithe nó don duine eile sin a fhéadfaidh an Chúirt a dheimhniú.
- 4.11 Déantar foráil san Acht um Fháiltis ó Choireacht (Leasú), 2005 chun Ordú Diúscartha faoi thoiliú Alt 4A a fháil inar féidir leis an Ard-Chúirt Ordú a dhéanamh atá comhchosúil le hOrdú Alt 4 ar toiliú, i gcásanna arb ann d'Ordú Alt 3 ar feadh níos lú ná seacht mbliana.
- 4.12 B'ann do shé (6) chás nua a tugadh faoin Acht FÓC le linn 2011. Ina theannta sin, tugadh fiche a trí (23) cás chun críche i rith 2011. Léirítear an líon Orduithe a fuarthas faoi Ailt 2, 3, (1), 3(3), 4, 4A, agus 7 den Acht FÓC mar aon lena luachanna, i dTábla 3.

Tábla 3:- Orduithe a fuarthas faoin Acht um Fháltais ó Choireacht, 1996 agus 2005

<i>Sainiú</i>	<i>Líon na nOrduithe</i>	<i>Líon na bhFreagróirí</i>	<i>Méid €</i>	<i>Méid £ STG</i>	<i>Méid \$ SAM</i>
<i>Orduithe Eatramhacha faoi Alt 2</i>	<i>6</i>	<i>17</i>	<i>5,384,559.73</i>	<i>6,725.00</i>	
<i>Orduithe Idirbhreitheacha faoi Alt 3(1)</i>	<i>19</i>	<i>48</i>	<i>7,169,793.98</i>	<i>73,248.29</i>	<i>699,889.09</i>
<i>Éagsúlú Orduithe faoi Alt 3(3)</i>	<i>5</i>	<i>12</i>	<i>2,843,012.96</i>		
<i>Orduithe Diúscartha faoi Alt 4</i>	<i>8</i>	<i>13</i>	<i>1,383,983.20</i>		
<i>Orduithe Toilithe Diúscartha faoi Alt 4A</i>	<i>15</i>	<i>35</i>	<i>2,047,745.06</i>		
<i>Orduithe Glacadóireachta faoi Alt 7</i>	<i>18</i>	<i>40</i>	<i>5,282,489.02</i>	<i>671,842.30</i>	

Áirítear le roinnt figiúirí suimeanna a tiontaíodh ó airgeadraí eile

4.13 Ag eascairt ó ghníomhartha um Fháltais ó Choireacht, rinneadh €2,734,715.22¹ ar an iomlán a íoc leis an Aire Airgeadais agus leis an Aire Caiteachais Phoiblí agus Athchóirithe le linn 2011. Bhain na cistí seo le hOrduithe Alt 4 agus Alt 4A a fuarthas i rith chúrsa na bliana agus na mblianta roimhe sin.

4.14 Sa mhullach ar an tsuim a leagtar amach in 4.13, chuir an Biúró ordú faoi urrús de bhun Alt 3(3), a dhéanann suim €2.682 milliún a aistriú chuig leachtaitheoir lena scaipeadh chun sochair íospartaigh na calaoise. Bhain seo le cistí a deimhníodh a bhí mar fháltais ó choireacht i ndiaidh gur thug an Biúró iarratas chun solais. I gcás eile um fháltais ó choireacht ag an mBiúró, rinneadh suim £300,000 steirling a chur faoi bhráid na gCúirteanna HM agus na Seirbhísí Binse sa RA le hóc as fiachas coigistithe choiriúil.

¹ Áirítear leis seo ainmníocht Steirling a tiontaíodh ina Euro.

CUNTAIS GHLACADÓIREACHTA

4.15 Leagtar amach i dTábla 4 a leanas an t-iarmhéid tosaigh amhail an 1 Eanáir 2011, an ghníomhaíocht le linn na bliana agus an t-iarmhéid deiridh amhail an 31 Nollaig 2011 sna cuntais ghlacadóireachta a bhí á gcoinneáil ag an mBiúró.

Tábla 4:- Ráiteas um Ghlacadóireacht Cuntas

	€	£ STG	\$ SAM
<i>Iarmhéid Tosaigh na gCuntas Glacadóireachta 01/01/2011</i>	<i>7,935,480.05</i>	<i>828,795.59</i>	<i>699,460.18</i>
<i>Méideanna arna réadú, lena n-áirítear ús agus réamhíocaíochtaí oibriúcháin</i>	<i>3,568,003.05</i>	<i>383,313.23</i>	<i>2,452.44</i>
<i>Íocaíochtaí amach, lena n-áirítear íocaíochtaí chuig an Aire Airgeadais agus Caiteachas Glacadóireachta Oibriúcháin</i>	<i>3,562,549.77</i>	<i>110,820.92</i>	<i>769.32</i>
<i>Iarmhéid Deiridh na gCuntas Glacadóireachta 31/12/2011</i>	<i>7,940,933.33</i>	<i>1,101,287.90</i>	<i>701,143.30</i>

4.16 Le linn an ráithe deiridh de 2011, thug an Roinn Dlí agus Cirt agus an tAonad Iniúchta Inmheánaigh faoi iniúchadh ar son an Bhiúró, agus rinne siad athbhreithniú ar chórais bhainistíochta agus ar rialuithe a bhí i bhfeidhm sa Bhiúró agus iad siúd a bhí ag an nGlacadóir maidir le gach sócmhainn a bhí ag teacht faoi sheilbh an Bhiúró agus an Ghlacadóira. Amhail an 31/12/2011, bhíothas ag fanacht leis an tuarascáil deiridh.

GNÍOMHARTHA IONCAIM

4.17 Bronntar na cumhachtaí ar an mBiúró faoin Acht chun cumhachtaí ábhartha de na hAchtanna Cánach a chur i bhfeidhm i leith na mbrabús nó na ngnóthachan a bhaintear ó iompar coiriúil agus ó iompar coiriúil a bhfuiltear in amhras air.

Cuireann cur i bhfeidhm na gcumhachtaí seo ar chumas an Bhiúró tabhairt faoina sainchúram reachtúil agus is bealach éifeachtach é chun an deis a bhaint díobh siúd atá gafa le hiompar coiriúil agus iompar coiriúil a bhfuiltear in amhras air, chun tairbhe a bhaint as na brabúis nó na gnóthachain sin.

- 4.18 Baineadh an-úsáid as forálacha an Achta um Nochtadh Faisnéise chun Críocha Cánachais agus Críocha Eile, 1996 i rith na bliana agus foráil á déanamh d'aistriú na faisnéise idir na Coimisinéirí Ioncaim agus an Biúró.
- 4.19 I ndiaidh fiosrúchán ar ghnóthaí airgeadais iad siúd atá gafa le hiompar coiriúil, nó iompar coiriúil a bhfuiltear in amhras air, chuir an Biúró forálacha na nAchtanna Cánach i bhfeidhm, sa chás cuí. Tugadh líon fiosrúchán chun críche trí chomhaontú agus foráil á déanamh d'íocaíocht cánach, úis agus pionós.
- 4.20 Rinne Oifigigh Bhiúró na gCoimisinéirí Ioncaim measúnú ar thríocha a cúig (35) duine le linn 2011. Tá daoine i dteideal achomharc a dhéanamh chuig na Coimisinéirí Achomhairc nuair nach n-aontaíonn siad le measúnú. I gcaitheamh na bliana, d'agair fiche a trí (23) duine an ceart seo. Dhiúltaigh an Biúró achomhairc ochtar (8) de na daoine seo de bharr gur theip orthu forálacha ábhartha na nAchtanna Cánacha a chomhlíonadh. Rinne cúigear (5) de na daoine seo an diúltú a achomharc chuig an gCoimisinéir Achomhairc. I rith na bliana, sheas na Coimisinéirí Achomhairc le cinneadh an Bhiúró chun an t-achomharc a dhiúltú i ngach ceann de na cásanna seo.
- 4.21 Amhail an 1 Eanáir 2011, b'ann do shé (6) chás ag céim na gCoimisinéirí Achomhairc agus le linn na bliana, ceadaíodh sé déag (16) achomharc de bharr gur agair na daoine an ceart a bhí acu chun achomharc a dhéanamh i gceart i gcomhréir le forálacha na nAchtanna Cánach. Rinne na Coimisinéirí Achomhairc na hachomhairc chánach a dheimhniú i seacht (7) gcás trí na measúnuithe a rinne an Biúró a dheimhniú agus d'aistarraing naonúr (9) daoine a n-achomhairc sular éist an Coimisinéir Achomhairc leo. Amhail an 31 Nollaig 2011, bhí sé (6) achomharc ar feitheamh éisteachta roimh na Coimisinéirí Achomhairc.
- 4.22 Amhail an 1 Eanáir 2011, b'ann do dhá (2) chás ag céim na Cúirte Cuarda agus le linn na bliana, rinne cúigear (5) daoine cinneadh an Choimisinéara Achomhairc a achomharc chuig an gCúirt Cuarda. Rinne Breitheamh na Cúirte Cuarda cinneadh

a dhéanamh ar an achomharc cánach i gcás amháin (1) trí na measúnuithe a rinne an Biúró a dheimhniú agus d'aistarraing duine amháin (1) an t-achomhairc sular éist an Chúirt Chuarda leis. Amhail an 31 Nollaig 2011, b'ann do chúig (5) chás a bhain céimeanna éagsúla amach i bpróiseas achomhairc na Cúirte Cuarda.

4.23 Le linn na bliana, chuir beirt (2) daoine a míshásamh in iúl le cinneadh an Choimisinéara Achomhairc agus léirigh siad gur mhian leo tús a chur le cás san Ard-Chúirt.

4.24 Chuir an Biúró nósanna imeachta forfheidhmithe na nAchtanna Cánach i bhfeidhm (lena n-áirítear úsáid Orduithe Astaithe) in aghaidh sócmhainní airgeadais mhainnitheoirí cánach agus thionscain siad imeachtaí aisghabhála in aon chás déag (11) chun an cháin a bhí dlite a fháil.

4.25 Tugtar i dTáblaí 5 go dtí 12 a leanas, agus an dá cheann sin san áireamh, sonraí faoi na gníomhartha a ghlac an Biúró, lena n-áirítear na méideanna cánach a gearradh ag measúnú, a éilíodh agus a bailíodh nó a aisghabháladh ar bhealach eile agus cásanna ag céim an Choimisinéara Achomhairc agus na Cúirte Cuarda.

Tábla 5: Cáin a gearradh ag measúnú

<i>Sainiú</i>	€
<i>Cáin Ioncaim</i>	<i>10,385,769</i>
<i>Cáin Bhreislúacha</i>	<i>620,650</i>
<i>Dleacht mháil</i>	<i>2,326,292</i>
<i>Cáin Ghnóthachan Caipitiúil</i>	<i>155,668</i>
<i>IOMLÁN</i>	<i>13,488,379</i>

Tábla 6: Cáin agus ús a éilíodh

<i>Sainiú</i>	€
<i>Cáin Ioncaim</i>	<i>11,260,050</i>
<i>Cáin Bhreislúacha</i>	<i>785,473</i>
<i>ÍMAT/ÁSPC</i>	<i>11,846</i>
<i>Cáin Ghnóthachan Caipitiúil</i>	<i>294,606</i>
<i>IOMLÁN</i>	<i>12,351,975</i>

Tábla 7: Cáin agus ús a bailíodh

<i>Sainiú</i>	€
<i>Cáin Ioncaim</i>	3,613,973
<i>Cáin Ghnóthachan Caipitiúil</i>	2,876
<i>Cáin Bhreisluacha</i>	6,293
<i>Dleacht Stampála</i>	149,518
<i>Cáin Chláraithe Feithiclí</i>	32,207
IOMLÁN	3,804,867

Tábla 8: Imeachtaí Ard-Chúirte a tionscnaíodh chun cáin agus ús a aisghabháil

	<i>Líon na gcásanna</i>	€
<i>Iomlán</i>	11	17,929,872

Tábla 9: Cáin agus ús a aisghabháladh le Cumhachtaí Astaithe na gCoimisinéirí Ioncaim a úsáid

	<i>Líon na gcásanna</i>	€
<i>Iomlán</i>	12	358,478

Tábla 10: Toradh na nAchomharc a dhiúltaigh an Bhiúró

<i>Sainiú</i>	<i>Líon na gcásanna</i>
<i>Achomhairc a dhiúltaigh an Cigire in 2011</i>	8
<i>An líon diúltaithe nach ndearnadh a achomharc</i>	3
<i>Diúltú ag Cigire a rinneadh a achomharc leis an gCoimisinéir Achomhairc</i>	5
<i>Achomha(i)rc a tugadh chun cinn amhail an 1/1/2011</i>	1
<i>Sheas an Coimisinéir Achomhairc le cinneadh an Bhiúró</i>	6
<i>Achomhairc ar lámh amhail an 31/12/2011</i>	0

Tábla 11: Toradh na nAchomharc ag Céim an Choimisinéara Achomhairc

<i>Sainiú</i>	<i>Líon na gcásanna</i>
<i>Cásanna ar chéim an achomhairc amhail an 1/1/2011</i>	6*
<i>Achomhairc a rinneadh a agair i gceart in 2011</i>	16
<i>Achomhairc ar a ndearna an Coimisinéir Achomhairc cinneadh</i>	7
<i>Achomhairc a aistarraingíodh</i>	9
<i>Cásanna ar chéim an achomhairc amhail an 31/12/2011</i>	6

* Eascaíonn cás amháin eile thar fhigiúr deiridh 2010 ó athghníomhachtú achomharc stairiúil ó 2003.

Tábla 12: Toradh na nAchomharc chuig an gCúirt Cuarda

<i>Sainiú</i>	<i>Líon na gcásanna</i>
<i>Cásanna ar láimh amhail an 1/1/2011</i>	<i>2</i>
<i>Achomhairc a dhéanamh ar chinneadh an Choimisinéara</i> <i>Achomharc chuig an gCúirt Cuarda</i>	<i>5</i>
<i>Cinneadh arna dhéanamh ag Breitheamh na Cúirte Cuarda ar an achomharc</i>	<i>1</i>
<i>Achomhairc a aistarraingíodh</i>	<i>1</i>
<i>Cásanna ar láimh amhail an 31/12/2011</i>	<i>5</i>

4.26 Sa mhullach ar an €3,804,867 milliún a bailíodh faoi shainchúram Ioncaim an Bhiúró, amhail a leagtar amach é i dTábla 7 thuas, bhí fiosrúchán amháin (1) den Bhiúró ina thoradh ar mhótarfheithicil, Range Rover Discovery, a urghabháil agus a fhorghéilleadh don Stát, ar a raibh luach de bhreis ar €2,000 faoi fhorálacha an Achta Airgeadais, 2001.

GNÍOMHARTHA LEASA SHÓISIALAIGH

4.27 Ina theannta sin uile, téann an Biúró i mbun gnímh faoi na hAchtanna Leasa Shóisialaigh de bhun a bhfeidhmeanna amhail a leagtar amach iad in Alt 5 den Acht. Ag eascairt ó fhiosrúcháin ag Oifigigh den Bhiúró, chuathas i mbun gnímh de bhun shainchúram Leasa Shóisialaigh an Bhiúró i leith céad agus fiche (120) duine. Rinneadh líon íocaíochtaí Leasa Shóisialaigh a fhoirceannadh nó a laghdú, as ar eascair coigiltí don Státhiste, amhail a leagtar amach é i dTábla 13 thíos.

Tábla 13: Coigiltí Leasa Shóisialaigh de réir shaghas na scéime

Saghas na Scéime	€
Liúntas Cuardaitheora Poist	85,956.00
Íocaíocht Teaghlach Aontuismitheora	276,420.00
Liúntas Míchumais	143,785.80
Liúntas Cúramóra	110,350.20
Iomlán	616,512.00

- 4.28 Rinneadh ocht déag (18) achomharc a chur faoi bhráid an Phríomh-Oifigigh Achomhairc i leith cinntí a rinneadh faoi Oifigigh Leasa Shóisialaigh an Bhiúró. Dheimhnigh an Príomh-Oifigeach Achomhairc nach raibh an gnáthnós imeachta achomhairc leordhóthanach chun próiseáil éifeachtach na n-achomharc seo a chur faoi urrús agus d’ordaigh sé nach mór do na hachomharcóirí a n-achomhairc a chur faoi bhráid na Cúirte Cuarda Sibhialta. Rinneadh trí (3) achomharc a aistarraingt, níor lean deichniúr (10) achomharcóirí ar aghaidh lena n-achomhairc (gan iad a chur faoi bhráid na Cúirte Cuarda amhail a d’ordaigh an Príomh-Oifigeach Achomhairc) agus bhí cúig (5) cinn fós ar bun amhail an 31 Nollaig 2011.
- 4.29 As na cúig (5) chás achomhairc a tugadh anonn ó 2010 agus cás amháin (1) ó 2009, éisteadh le trí (3) chás os comhair na Cúirte Cuarda Sibhialta agus seasadh leis na cinntí a rinne Oifigigh Leasa Shóisialaigh an Bhiúró. Níor lean cás amháin (1) ar aghaidh chuig an gCúirt agus meastar gurb ionann agus dúnta an t-achomharc sin. In dhá (2) chás, ní dhearnadh cinneadh amhail an 31 Nollaig 2011.
- 4.30 Ag eascairt ó fhiosrúcháin an Bhiúró, rinneadh ró-íocaíochtaí Leasa Shóisialaigh a shainaithint agus a mheasúnú, agus leagtar sonraí amach fúthu i dTábla 14 thíos.

Tábla 14: Ró-íocaíochtaí Leasa Shóisialaigh de réir shaghas na scéime

Saghas na Scéime	€
Liúntas Cuardaitheora Poist	765,242.48
Íocaíocht Teaghlach Aontuismitheora	400,648.83
Liúntas Míchumais	314,258.75
Liúntas Cúramóra	51,392.50
Iomlán	1,531,542.56

- 4.31 Rinne aisíocaíochtaí, tráthchodanna agus asbhaintí ó theidlíochtaí reatha difear d’aisghabháil airgid de réir Thábla 15 thíos.

Tábla 15: Aisghabháil Leasa Shóisialaigh airgid de réir shaghas na scéime

Saghas na Scéime	€
Liúntas Cuardaitheora Poist	343,587.36
Íocaíocht Teaghlach Aontuismitheora	60,819.50
Liúntas Míchumais	42,870.63
Liúntas Cúramóra	2,600.00
An Pinsean Stáit (Neamh-Ranníocach)	4,160.00
Iomlán	454,037.49

4.32 Thionscain an Biúro Toghairm Achomair na hArd-Chúirte um imeachtaí Aisghabhála féachaint le suimeanna a aisghabháil a ró-íocadh i gcás amháin (1) de réir Thábla 16 thíos.

Tábla 16: Imeachtaí Ard-Chúirte a tionscnaíodh chun suimeanna a ró-íocadh a aisghabháil

	<i>Líon na gcásanna</i>	€
<i>Iomlán</i>	<i>1</i>	<i>23,526.50</i>

IMSCRÚDUITHE EILE

- 4.33 Ag eascairt ó fhiosrúcháin a rinne an Biúró de bhun a sainchúraim reachtúil, thángthas ar shárúithe amhrasta ar chionta coiriúla agus, mar thoradh air sin, gabhadh líon daoine agus rinneadh comhaid a réiteach a lorg orduithe an Stiúrthóra Ionchúiseamh Poiblí (dá dtagraítear mar an DPP ina dhiaidh seo) agus rinneadh líon ionchúisimh coiriúla a leanúint.
- 4.34 Gabhadh triúr (3) daoine mar gheall ar chionta amhrasta ioncaim i gcodarsnacht le hAlt 1078 den Acht um Chomhdhlúthú Cánach, 1997. Cuireadh comhad amháin (1) faoi bhráid an DPP agus táthar ag feitheamh le horduithe. Sa dá (2) chás eile atá fanta, tá comhaid á réiteach faoi láthair lena gcur ar aghaidh chuig an DPP. Gabhadh beirt (2) daoine mar gheall ar chionta amhrasta ioncaim i gcodarsnacht le hAlt 1078 den Acht um Chomhdhlúthú Cánach, 1997. I gcás amháin, cuireadh comhad faoi bhráid an DPP a rinneadh cúisimh a ordú atá os comhair na Cúirte Coiriúla Cuarda faoi láthair. Cúisíodh duine amháin (1) a ghabhadh le linn 2010 i leith cionta i gcodarsnacht le hAlt 2010 den Acht um Chomhdhlúthú Cánach, 1078 agus tá an duine sin os comhair na Cúirte Coiriúla Cuarda faoi láthair. Tá an cás i leith an dara duine fós ar feitheamh.
- 4.35 Amhail a tuairiscíodh i dTuarascáil Bhliantúil 2010, phléadáil duine amháin (1) ciontach i leith shárúithe Alt 1078 den Acht um Chomhdhlúthú Cánach, 1997. I rith 2011, gearradh pianbhreith dhá bhliain ar fionraí ar an duine seo os comhair na Cúirte Coiriúla Cuarda.
- 4.36 Ina theannta sin, in 2011, ciontaíodh duine amháin (1) a cúisíodh i leith cionta i gcodarsnacht le hAlt 2010 den Acht um Chomhdhlúthú Cánach, 2007 agus gearradh fíneáil €4,170 ar an duine sin.
- 4.37 Amhail a tuairiscíodh i dTuarascáil Bhliantúil 2010, gabhadh beirt (2) daoine maidir le sárúithe amhrasta den Acht um Cheartas Coiriúil (Cionta Gadaíochta agus Calaoise), 2001 i dtaca le héilimh chalaioiseacha amhrasta ar Leas Sóisialach. Ina leith seo, cuireadh comhad amháin (1) ar aghaidh chuig an DPP in 2010 agus in 2011, d'ordaigh an DPP gan an duine sin a ionchúiseamh. I dtaca leis an dara duine,

tugadh faoi bhreis fiosrúchán agus tá comhad á réiteach faoi láthair lena chur faoi bhráid an DPP.

- 4.38 Amhail a tuairiscíodh i dTuarascáil Bhliantúil 2010, cúisíodh duine amháin (1) le daichead a hocht (48) cion i gcodarsnacht le forálacha an Achta um Chomhdhlúthú Leasa Shóisialaigh, 2005 agus an Achta um Cheartas Coiriúil (Cionta Gadaíochta agus Calaoise), 2001. In 2011, cuireadh an duine seo ar aghaidh chuig an gCúirt Choiriúil Chuarda lena thriail.
- 4.39 Ag eascairt ó dhá fhiosrúchán ar leith faoinar tugadh in 2011, ghabh Oifigigh den Bhiúró um Shócmhainní Coiriúla beirt (2) daoine a rabhthas in amhras orthu go ndearna siad cionta i gcodarsnacht le hAlt 13 den Acht lenar bhain imeaglú agus bagairtí a dhéanamh ar Oifigigh den Bhiúró. Sa dá chás, rinneadh comhaid a chur faoi bhráid an DPP. Amhail ón 31/12/2011, i ndiaidh orduithe a fháil ón DPP, cúisíodh duine amháin (1) agus tugadh an duine sin os comhair na Cúirte Dúiche agus bhíodhas ag feitheamh orduithe maidir leis an dara duine.
- 4.40 Amhail a tuairiscíodh i dTuarascáil Bhliantúil 2010, bhí dhá (2) chomhad á réiteach ag an mBiúró lena gcur faoi bhráid an DPP i dtaca le cionta um gháinneáil ar airgead a rabhthas in amhras orthu i gcodarsnacht le forálacha an Achta um Cheartas Coiriúil (Gáinneáil Airgid agus Maoiniú Sceimhlitheoirí), 2010. Cuireadh comhaid faoi bhráid an DPP a d'ordaigh gan ionchúiseamh a dhéanamh sa dá chás.
- 4.41 Amhail a tuairiscíodh i dTuarascáil Bhliantúil 2010, cúisíodh seisear (6) daoine le cionta i gcodarsnacht le hAlt 1(2) den Acht um Chleachtais Éilitheacha Chomhlachtaí Poiblí, 1889 arna leasú ag Alt 4(2) den Acht um Éiliú a Chosc, 1916 agus Alt 38 den Acht um Eitic in Oifigí Poiblí, 1995. De bharr go bhfuair duine amháin (1) de na daoine a bhí i gceist bás, tá cúig (5) de na cásanna seo fós os comhair na gCúirteanna. Thug beirt (2) daoine achomhairc os comhair na hArd-Chúirte agus éisteadh leo i rith 2011. Níor éirigh le ceachtar achomharc. Sa dá chás, rinneadh achomhairc i leith chinneadh na hArd-Chúirte a thabhairt chuig an gCúirt Uachtarach. In 2011, d'éist an Chúirt Uachtarach le ceann amháin (1) de na hachomhairc seo agus bhíodhas ag feitheamh le breithiúnas. I dtaca leis an dara hachomharc chuig an gCúirt Uachtarach, bhíodhas ar feitheamh le dáta éisteachta. Tá gach ceann de na cúig (5) ionchúiseamh fós curtha ar athló os comhair na Cúirte

Coiriúla Cuarda go dtí go ndéanfaidh an Chúirt Uachtarach cinntí faoi na hachomhairc.

- 4.42 I dTuarascáil Bhliantúil 2009 agus 2010, thuairiscigh an Biúró, mar thoradh ar *Operation Tie*, fiosrúchán ar neamhrialtachtaí um Cháin Chláraithe Feithiclí, cúisíodh ceathrar (4) daoine agus cuireadh iad os comhair na Cúirte Coiriúla Cuarda lena dtrial. Chuir duine amháin (1) tús le himeachtaí um Athbhreithniú Breithiúnach a rinneadh a aistarraingt dá éis sin in 2010. Le linn 2011, phléadáil duine amháin (1) ciontach i leith na gcúiseanna agus gearradh trí (3) bliana sa phríosún ar an duine céanna. Rinneadh dhá (2) bhliain den phianbhreith trí bliana a chur ar fionraí. Ciontaíodh duine amháin (1) sa Chúirt Choiriúil Chuarda tar éis triail iomlán a dhéanamh ar an ábhar. Gearradh pianbhreith bliain amháin (1) príosúnachta air a cuireadh ar fionraí agus gearradh fíneáil €12,700 air. I dtaca leis an mbeirt (2) daoine eile, tá a gcásanna liostáilte lena n-éisteacht le linn 2012.

Caibidil 5

5. DLÍTHÍOCHT AGUS CÁSDLÍ

GINEARÁLTA

- 5.1 In 2011, dhírigh an Biúró ar athbhreithniú a dhéanamh ar imeachtaí níos sine cásanna coireachta ar chuir an Biúró tús leo i mblianta roimhe seo, mar aon le go leor díobh a thabhairt chun conclúide. Is éard a d’eascair as seo go bhfuarthas fiche a trí (23) ordú faoi Alt 4 agus 4A den Acht FÓC agus as ar eascair breis agus €2.7 milliún a chur ar aghaidh chuig an Aire Airgeadais agus chuig an Aire Caiteachais Phoiblí agus Athchóirithe.
- 5.2 Réitíodh dhá chás déag (12) níos sine, ina raibh Orduithe Alt 3 i bhfeidhm ar feadh breis agus seacht (7) mbliana chun iad a chur ar aghaidh faoin Acht FÓC. I ngach ceann de na cásanna seo, déanfar iarratais faoi Alt 4 den Acht FÓC faoi réir acmhainní laistigh d’Oifig an Phríomh-Aturnae Stáit.

BREITHIÚNAIS SHUNTASACHA

- 5.3 **An Biúró um Shócmhainní Coiriúla -v- Routeback Media agus Harry Zeman: Feeney J.: An 20 Eanáir 2011.**

Is éard a bhí i gceist leis an gcás seo calaois ríomhaire, inar iontráil an Dara Freagróir Ainmnithe, atá bunaithe sa tSualainn, i gconradh le soláthróir seirbhís airgeadais atá bunaithe in Éirinn, chun próiseáil cárta creidmheasa agus seirbhísí comhghaolmhara a chur ar fáil. Laistigh de chúpla lá, b’ann do thart ar 90,000 idirbheart cárta creidmheasa. Bhí amhras ar an mBanc go raibh calaois i gceist, agus rinne siad an gnó a chur ar fionraí mar aon leis na cistí a choimeád. Rinne an Biúró, le cúnamh óna gcomhghleacaithe sa tSualainn, iarratas a lorg faoi Alt 3 agus 7 den Acht FÓC ar an bhforas gurbh ionann na hidirbheartaíochtaí agus dallamullóg. Ní raibh ar an gCúirt breithniú a dhéanamh ar cibé acu arb ann do “chomhfhreagrás ciona” idir an tSualainn agus Éirinn agus bhí siad sásta gur tharla an cion seo amach laistigh den dlínse seo. Bhraith an Chúirt, agus é ina chonclúid acu gur ceannaíodh an réadmhaoin le fáiltas ón gcoireacht, i measc rudaí eile, ar fhianaise tuairime saineolaithe ó Anailísí Fóiréinseach den Bhiúró tar éis fiosrúchán agus anailís a dhéanamh ar na bunachair

shonraí ábhartha idirlín go léir. Ceadáíodh Ordú Alt 3, inar measadh gurbh ionann thart ar €700,000 agus fáltais ón gcoireacht.

5.4 **Murphy –v- John Gilligan agus Daoine Eile:**

Tugadh dlíthíocht shuntasach chun conclúide sa chás seo i gcúrsa na dtrí Bhreithiúnas a leanas:

(i) Judgement Feeney J.: An 27 Eanáir 2011 (Cur i bhfeidhm Alt 3(3) den Acht FÓC)

Dhíbh an Chúirt éilimh a rinne John Gilligan, Geraldine Gilligan agus Darren Gilligan, a rinneadh de bhun Alt 3(3) den Acht FÓC nach raibh an réadmhaoin, a bhí ina hábhar d’Ordú Alt 3 cheana féin, ó fháltais choireachta. Rinneadh a shoiléiriú gur ceannaíodh an réadmhaoin ó ioncam a tuilleadh go dlisteanach trí fhoinsí éagsúla, lena n-áirítear cearrbhachas rathúil agus infheistíochtaí eile. I dtaca le hiarratas Alt 3(3) a rinne Tracey Gilligan, rinne an Breitheamh, áfach, an tOrdú Alt 3 a éagsúlú, sa mhéid gur bhain sé le réadmhaoin ag Leamhcán, Contae Bhaile Átha Cliath agus suim IR£10,000 a chur san áireamh ar thug tríú páirtí di.

Chuaigh an Chúirt, agus a gconclúid á baint amach acu, i ngleic le roinnt pointí dlí, ar dhéileáil Cúirteanna éagsúla leo go léir, lena n-áirítear an méid a leanas –

- Ní bhaineann na focail “bheith ina chúis le héagóir” in Alt 3(3) ach leis an staid reatha agus ní féidir an fhoráil a úsáid mar fhoirm athbhreithnithe ar cheadú tosaigh an Ordaithe Alt 3.
- Sheas an Chúirt Uachtarach le hOrdú Alt 3 agus meastar gur ceadaíodh go hoiriúnach é, agus tá sé i bhfeidhm go fóill.
- Tá cead ag na Freagróirí chun aighneacht a dhéanamh ar na fíricí féachaint chun a chruthú nach ó fháltais choireachta a ceannaíodh an réadmhaoin, de bhun Alt 3(3).

- Is ionann an caighdeán cruthúnais a theastaíonn agus é sin atá infheidhme d'imeachtaí sibhialta.
- Féadfaidh an Chúirt an tOrdú a dhíscaoileadh nó, más oiriúnach, an tOrdú Alt 3 a éagsúlú méid áirithe.
- Ní gá don Bhiúró nasc díreach a chruthú idir cionta sonracha agus fáltais ó choireacht.
- Ní féidir leis na Freagróirí féachaint chun brath ar aon éilimh i leith claonta trí mhoilleanna ós rud é gur leo an t-iarratas agus gur seo an chéad uair a roghnaíonn siad chun tús a chur leis, tráth nach mór 13 bliana tar éis an tOrdú Alt 3 a cheadú.

(ii) Breithiúnas Feeney J.: An 20 Nollaig 2011 (Cur i bhfeidhm iarratas Alt 4 den Acht FÓC)

Ba é seo an chéad iarratas ar cuireadh ina aghaidh a ghlac an Biúró de bhun Alt 4, agus ghlac an Chúirt an deis chun go leor de na saincheisteanna ábhartha a shainmhíniú.

- Is léir gurb é tionchar Ordú Alt 3 chun leas na réadmhaoine a chalcadh mar aon le haon duine a thugann le fios go bhfuil leas acu inti.
- Ní féidir athbhreithniú nó athfhillleadh a dhéanamh ar thorthaí breithiúnais, a tugadh cheana féin maidir le hAlt 3(3) lena mbaineann iarratas an Chosantóra nár ceannaíodh an réadmhaoin le fáltais ó choireacht le linn chúrsa iarratas Alt 4.
- Ní hionann Ordú Alt 4, ar aon ghnáthbhealach, Ordú Forghéillte de bharr nach ann d'aon ghné lena mbaineann an Freagróir agus rud éigin á chailleadh nó a thabhairt suas aige/aici mar pionós nó rud éigin a thógáil uaidh/uaithi mar pionós mar gheall ar chion. Ní hionann ceadú Ordú Diúscartha faoi Alt 4 agus pionós nó forghéilleadh de réir na fíor-chéille nó na céille cirte. Ní dhéantar agus ní féidir glacadh réadmhaoine faoi Acht an FÓC a chothromú le pionós.

- Níl Alt 11(7) den Acht um Reacht na dTeorainneacha, 1957 i gceist de bharr nach mbaineann an fhoráil seo ach le gníomhartha ag faisnéiseoirí príobháideacha nó gníomhartha le haghaidh pionós nó forghéillte agus nach mbaineann siad leis an Acht FÓC dá réir sin, i ndiaidh scrúdú a dhéanamh ar an stair reachtaíochta. Fiú dá mbeadh seo i gceist, ní féidir leis an ngníomh fabhrú ach amháin tar éis go gcuirtear Ordú Alt 3 i bhfeidhm ar feadh seacht mbliana, agus ar an ábhar sin, ní thosaíonn an tréimhse theorann tar éis seacht mbliana.
- Píosa uathúil reachtaíochta is ea an tAcht FÓC agus is ann don bhaol go rachfaí ar strae dá ndéanfaí iarrachtaí chun teacht ar analach i reachtaíocht eile agus aon chuid ar leith den Acht FÓC á léirmhíniú.
- Ní bhaineann saincheist na "héagóra" de bhun Alt 4(8) den Acht FÓC ach le haon fhíricí breise a chruthaítear tar éis chinneadh éisteacht Alt 3(3).

(iii) Breithiúnas Feeney J.: An 20 Nollaig 2011 - Pointí Coinbhinsiún

Chruthaigh an Breithiúnas a rinneadh líon torthaí maidir le tionchar Acht an Choinbhinsiún Eorpaigh um Chearta Daonna, 2003.

- (i) Ní mór do pháirtí atá chun dlíthíocht a dhéanamh i gCúirt Éireannach foras iarbhír agus cruinn a shainaitheint le héileamh faoin gCoinbhinsiún Eorpach um Chearta Daonna, 2003 agus ní féidir leo féachaint chun brath ar Choinbhinsiún i dtéarma fairsing, ginearálta nó sainaitheanta.
- (ii) Ní oibríonn Acht 2003 go cúlghabhálach agus ní bhaineann sé le himeachtaí a tharla roimhe seo nó atá ar feitheamh dlíthíochta.
- (iii) Rinneadh an argóint gur tharla an éisteacht faoi Alt 3(3) agus Alt 4 i ndiaidh Acht 2003, agus ar an ábhar sin, d'fhéadfaí a mheas gurb ionann agus falsánach iad, laistigh den Acht sin. Thit na hábhair agus na himeachtaí faoina ndearna an Gearánaí gearán amach cheana féin nó b'ann dóibh an tráth sin agus bhí an dlíthíocht faoin Acht FÓC ina ndearnadh Ordú Alt 3 ar bun cheana féin.
- (iv) Ní bhaineann Airteagal 7(1) den Choinbhinsiún a chuireann toirmeasc go cúlghabhálach ar chruthú cion coiriúil nó an pionós ciona chaighdeánaigh a mhéadú mar gheall gur dheimhnigh an Chúirt Uachtarach cheana féin nach gcruthaíonn an tAcht FÓC cion coiriúil.

(v) Is sibhialta iad na himeachtaí faoin Acht FÓC, 1996 do chuspóirí Airteagal 6 agus Airteagal 7 den Choinbhinsiún araon. Ní coiriúil go sainiúil í scéim an Achta FÓC le haghaidh caomhnú agus, nuair is cuí, diúscairt fáltas ó chuireacht agus ní chuireann siad chuireann siad i gníomh ceachtar ceann d'Airteagal 6 nó 7 den Choinbhinsiún de bharr gur léir gurb imeachtaí sibhialta atá iontu. Agus breithniú á dhéanamh ar cibé acu ar sháraigh nó nár sháraigh an tAcht FÓC cearta réadmhaoine a bhí faoi chosaint faoin gCoinbhinsiún, rinne an Chúirt an pointe a leanas:

- (a) Eascraíonn an chonclúid as cosaint an nóis imeachta a chuirtear ar fáil san Acht FÓC nach sáraítear cearta Airteagal 6.
- (b) Níl aon fhoráil den reachtaíocht doiléir. B'eol do John Gilligan ó 1997 i leith go bhféadfadh sé iarratas a dhéanamh faoi Alt 3(3).
- (c) Má bhí aon mhoill ar chúrsaí, b'eisean faoi deara na moille.
- (d) Ní fhéadfaí é a chur i gcomparáid le tuairim éisteachta córa in imeachtaí coiriúla chun an fhreagracht a leagan ar gach iarratasóir chun cuntas inchreidte a thabhairt ar a gcás reatha airgeadais. I ngach cás, agus é arna chruthú go raibh an té bainteach i mangaireacht fhairsing agus luachmhar drugaí thar thréimhse bhlianta, ní mí-réasúnta a bheith ag súil go míneodh na hiarratasóirí céard a tharla don airgead uile a léiríodh a bhí ina seilbh acu, agus ní pioc níos mí-réasúnta atá sé ag an gcéad chéim den imeacht, chun bheith ag súil leis go léiríonn siad dlisteanacht fhoinsé an airgid nó na sócmhainní. Tháinig na hábhair sin faoi eolas ar leith an iarratasóra agus níor dheacair an t-ualach ar gach duine díobh a bhaint amach dá mb'fhíor dá gcuntais ar a ngnóthaí airgeadais.

5.5 **CAB -v- Andrew agus Ellen Wall: Breithiúnas Feeney J.: An 1 Meitheamh 2011**

Rinne an Breitheamh Onórach Feeney, tar éis dó éileamh an Fhreagróra a chloisteáil gur ceannaíodh an réadmhaion, lena n-áirítear teach teaghlaigh go dlisteanach, an t-éileamh a dhíbh agus rinne sé Ordú a dheonú de bhun Alt 3 inar dearbhaíodh gur ceannaíodh an réadmhaoin, i measc rudaí eile, ó fháltais chuireachta. Rinne sé iarratas a rinne an Biúro a chur ar athló chun Glacadóir a cheapadh agus dheonaigh sé bac ar feitheamh achomharc na Cúirte Uachtaraí. I gcúrsa na bliana seo, lorg an Biúro go ndéanfaí an t-ábhar seo a oscailt athuair de

bharr nach raibh a n-achomharc á chur chun cinn ag Freagróirí leis an turas riachtanach agus b'ann do bhuairt shuntasach nach raibh an réadmhaoín faoi árachas. Cheap an Chúirt an Glacadóir chun seilbh a ghlacadh ar an réadmhaoín, chun í a chur faoi árachas agus í a ligean ar cíós, ach dhiúltaigh sé cumhacht díola. Ghlac an Glacadóir seilbh ar an réadmhaoín idir an dá linn. Cuireann seo le húsáid réiteach na nGlacadóireachtaí i gcásanna lena mbaineann fáltais ó choireacht.

5.6 **McKenna -v- H. agus H.: An Chúirt Uachtarach: Denham J.: An 25 Márta 2011**

Achomharc a bhí i gceist anseo a rinne céile i leith Ordú a rinneadh de bhun Alt 4 den Acht FÓC lena forghéilleadh teach teaghlaigh. Rinne an Chúirt Uachtarach an t-achomharc a dhíbh agus dhearbhaigh siad an tOrdú faoi Alt 4 ar bhonn thorthaí dlí Bhreitheamh na hArd-Chúirte. I measc na dtorthaí seo bhí an méid a leanas:

1. Cé nach mór don Chúirt bheith íogair i leith aon leas dlisteanach réadmhaoine a d'fhéadfadh bheith ag aon duine i leith na réadmhaoine, ní mór go mbíonn aird ag an gCúirt ar leas beartais an Stáit, leis, agus a chinntiú go bhfabhraítear fáltais ó choireacht chun sochair duine ar bith.
2. Tá suim níos mó ag an Stát i ndiúscairt na réadmhaoine a chruthaítear a ceannaíodh ó fháltais ó choireacht, ceal aon léiriú i leith ranníocaíocht dhlísteanaigh ag an gcéile isteach sa réadmhaoín.
3. Ceadáíonn Airteagal 8 den Choinbhinsiún Eorpach um Chearta Daonna teorannú ar cheart den saghas sin ar mhaithe le dea-rialachas, cé go gcosnaítear leas dlisteanach i dteach teaghlaigh faoi. Is amhlaidh atá an beartas faoin Acht FÓC.

Déanann an Breithiúnas seo difear do líon cásanna a bhfuil achomharc á dhéanamh orthu faoi láthair ag an bpointe seo.

5.7 **ATHBHREITHNIÚ AR REACHTAÍOCHT**

Chas an coiste, a bhunaigh an Roinn Dlí agus Cirt in 2010 ar a chéile i gcúrsa 2011. Rinne an coiste breithniú ar thograí a chuir an Biúró ar aghaidh maidir le hoibriú na reachtaíochta um fháltais ó choireacht agus ábhair bhainteacha, féachaint chun feabhsúcháin a thabhairt isteach ar an gcreatlach reatha reachtúil. Tá breithniú á dhéanamh ar na tograí ag an tráth seo.

CAIBIDIL 6

6. FORBAIRTÍ IDIRNÁISIÚNTA

- 6.1 Leanann an Biúró, mar aon leis an reachtaíocht atá mar bhonn agus taca dóibh, le suim na n-údarás um fhorfheidhmiú dlí agus na n-údarás breithiúnach a mhealladh go hidirnáisiúnta. Sa mhullach air sin, tá an straitéis atá glactha ag an mBiúró agus an leanúint dá sainchúram reachtúil fós ina n-ábhar spéise do go leor breathnóirí go hidirnáisiúnta.
- 6.2 Le linn chúrsa 2011, fuair an Biúró toscaireachtaí agus grúpaí oibre ó na tíortha a leanas: An Astráil, an Bheilg, an Ghearmáin, Lucsamburg, an tSlóivéin, an Ríocht Aontaithe agus Tuaisceart Éireann. Ina theannta sin, d'fhreastail Oifig den Bhiúró, tar éis dóibh cuireadh a fháil ó ghníomhaireachtaí um fhorfheidhmiú dlí agus ó chomhlachtaí eile, agus rinne siad cur i láthair ag líon comhdhálacha idirnáisiúnta maidir le sonraí na straitéise agus an cur chuige oibriúcháin go ginearálta lenar ghlac an Biúró a leagan amach.
- 6.3 Bhí an Biúró ina n-óstaigh ar Fhóram na gCuntasóirí Fóiréinseacha i nDlí Forfheidhmithe i Meitheamh 2011. Cuireann an Fóram bonn faoi mhodheolaíochtaí agus taithí a roinnt idir Cuntasóirí Fóiréinseacha i nDlí Forfheidhmithe. Is éard atá i measc bhaill an fhórait cuntasóirí a oibríonn i ndlí forfheidhmithe i Sasana, Albain, an Bhreatain Bheag, Tuaisceart Éireann agus Poblacht na hÉireann. D'fhreastail toscairí ó réimse fairsing de ghníomhaireachtaí um fhorfheidhmiú dlí, lena n-áirítear Póilíní Cathartha Londan, Póilíní Yorkshire Thiar, an Ghníomhaireacht um Choireacht Thromchúiseach (S.O.C.A), Aonad um Aisghabháil Shibhialta na hAlban, Coimisinéirí Ioncaim agus Custam na Banríona (HRMC), Oifig na gCoimisinéirí Ioncaim, Oifig an Stiúrthóra um Fhorfheidhmiú Corparáideach (O.D.C.E), Biúró Imscrúdaithe um Chaloais an Gharda Síochána agus na hóstaigh – an Biúró.
- 6.4 In 2011, lean an Biúró lena bhfeidhm mar an Oifig shannta um Aisghabháil Sócmhainní (OAS) do Phoblacht na hÉireann, agus bhí siad ag déileáil le hiarratais ar fhaisnéis agus ar chomhoibriú maidir le sainathint agus le hurghabháil sócmhainní lenar bhain iompar coiriúil a fuarthas laistigh den AE. Is ann d'fhiche a

seacht (27) OAS faoi láthair atá bunaithe i bhfiche a dó (22) Ballstát. Rinneadh ionadaíocht don Bhiúró ag dhá (2) chruinniú Ardán OAS a bhí ar siúl sa Bhruiséil. Lean an Biúró le leas a bhaint as OASanna sna Ballstáit agus lena gcuid imscrúduithe féin a chur chun cinn agus, nuair is féidir, chun cabhrú le dlínsí eile chun sprioc a dhéanamh d'fháltais ó iompar coiriúil.

6.5 Le linn 2011, ghlac an Biúró páirt sa Chomhairle um Measúnú an Aontais Eorpaigh ar Éirinn, faoinar tugadh faoi choimirce an 5ú Babhta de Chomh-Mheasúnuithe ag grúpa saineolaithe. Bá é “coireacht airgeadais agus imscrúdú airgeadais” ábhar an mheasúnaithe agus dhírigh an measúnú, chomh maith, ar fheabhsú na creatlaí oibriúcháin um fháltais choireachta a choigistiú agus a urghabháil. Chabhraigh an Biúró leis an Roinn Dlí agus Cirt agus le gníomhaireachtaí dlí eile in Éirinn chun ceistneoirí a réiteach agus chun casadh leis na saineolaithe cuí measúnaithe.

6.6 I gcaitheamh 2011, d'iarr an Roinn Gnóthaí Eachtracha ar an mBiúró cúnadh a thabhairt dóibh maidir le Cathaoirleacht na hÉireann den “Eagraíocht um Shlándaíl agus Comhar san Eoraip (OSCE)” in 2012. Tá sé ar intinn ag an ngrúpa béim a leagan ar obair an Bhiúró mar shamhail ar a bhféadfadh Stáit eile atá ag glacadh páirte san OSCE breithniú a dhéanamh uirthi i gcaitheamh a gCathaoirleachta in 2012. Chuir oifigigh den Bhiúró um Shócmhainní Coiriúla cruinniú faisnéise ar fáil d'oifigigh ó Thascfhórsa an OSCE i mBaile Átha Cliath agus do Mhisean an OSCE i Vín mar réiteach le haghaidh Chathaoirleacht 2012.

6.7 Amhail a tuairiscíodh in 2012, ghlac ball amháin (1) den Bhiúró páirt i gclár oiliúna faoi chistiú an AE ag a raibh an Spáinn ina n-óstaigh faoin gClár CEART (Ionad Sármhaitheasa agus Clár Oiliúna um Aisghabháil Sócmhainní). Lean an ball a d'fhreastail ar an gcúrsa seo lena staidéar leis an gclár seo i rith 2011.

6.8 **Líonra Idirghníomhaireachta um Aisghabháil Sócmhainní Camden (CARIN)**

Lean an Biúró le baint a bheith acu i Líonra Idirghníomhaireachta um Aisghabháil Sócmhainní Camden (CARIN) agus d'fhreastail siad ar an gComhdháil Bhliantúil a bhí ar bun i Meán Fómhair 2011, in Sofia na Bulgáire. Dhírigh an Chomhdháil ar chumharsáid agus ar chomhar idir gach gníomhaireacht a bhí páirteach i rianú agus i gcoigistiú sócmhainní, mar aon le hoiliúint imscrúdaitheoirí. I measc na dtopaicí tábhachtacha eile a chuimsíodh ag an gComhdháil bhí bunachar sonraí atá chomh fairsing leis an AE a bhunú d'Orduithe Coigistithe lenar bhain sócmhainní, bunú

Cláir Lárnacha Chuntas Bainc agus cearta íospartaigh chun sócmhainní a aisghabháil.

- 6.9 D'fhan an Biúró ar Choiste Stiúrtha CARIN agus toghadh iad chun seilbh a ghlacadh ar an Uachtaránacht le haghaidh 2013. D'fhonn tabhairt faoina bhfeidhmeanna faoin Uachtaránacht, rinne an Biúró iarratas ar an gCoimisiún Eorpach chun cistiú a fháil faoi Chlár an ISEC chun lámh chúnta a thabhairt d'Uachtaránacht an Ghrúpa agus d'eagrú an oibriúcháin don chomhdháil atá le bheith ar siúl in Éirinn in 2013, le bheith ar bun i gcomthráth le hUachtaránacht na hÉireann den AE.
- 6.10 Leanann an Biúró, trí CARIN, le féachaint chun orduithe neamhchiontaithe-bhunaithe forghéillte a bheith acu, ar nós na nOrduithe de bhun Alt 3 den Acht FÓC, a aithnítear agus a chuirtear chun feidhme i leith réadmhoine atá suite i mBallstáit eile.

COMHOIBRIÚ LEIS NA HÚDARÁIS ÁITIÚLA SA RÍOCHT AONTAITHE

- 6.11 Lean an Biúró ag comhoibriú go dlúth le gach údarás um fhorfheidhmiú dlí i dTuaisceart Éireann agus sa Ríocht Aontaithe chun imscrúduithe a chur chun cinn de chineál trasteorann agus idirnáisiúnta.
- 6.12 Ina theannta sin, ghlac an Biúró páirt sa Seimineár um Choireacht Eagraithe Comhar Trasteorann san Inse, i gContae na Mí, Éire. Ba é cuspóir an tseimineáir treochtaí nua coireachta a shainaithint agus chun comhaontú a dhéanamh ar limistéir chomhoibre idir na húdaráis um fhorfheidhmiú dlí ar an dá thaobh den Teorainn. Tugadh roinnt limistéar chun solais le haird a dhíriú orthu, lena n-áirítear úsáid amhrasta biúrónna seirbhís airgid i measc coirpeach, cibearchoireachta, tithe um fhás cannabais agus calaois alcóil feadh na Teorann.
- 6.13 **Grúpa Breosla Trasteorann**
- Lean an Biúró agus páirt á glacadh acu sa Ghrúpa Breosla Trasteorann agus d'fhreastail siad ar chruinnithe rialta. Lean an Biúró, mar aon leis an SOCA, HMRC agus an PSNI chun a n-aird a dhíriú ar ghníomhaíochtaí daoine a bhfuiltear in amhras orthu baint a bheith acu i smuigleáil breosla agus i ngáinneáil breosla as ar eascair roinnt gníomhaíochtaí de bhun shainchúram reachtúil an Bhiúró sa limistéar

seo, lena n-áirítear seirbhís mheasúnuithe substaintiúla ioncaim ar dhaoine a oibríonn ar bhonn trasteorann, arna sainaitheant ag an nGrúpa Oibre.

6.14 I gcaitheamh 2011, chuaigh an Grúpa i dteagmháil leis an nGníomhaireacht um Chosaint Comhshaoil agus le Gníomhaireacht Comhshaoil Thuaisceart Éireann maidir le hábhair lenar bhain daoine a bhí freagrach as táirge dramhaíola sciúradh breosla a dhumpáil go neamhdhleathach (slodach srl.) feadh na Teorann.

6.15 **An Grúpa Trasteorann Forfheidhmithe um Chalois Tobac**

I rith 2011, lean an Biúró le páirt a ghlacadh sa Ghrúpa Forfheidhmithe Trasteorann um Chalois Tobac a bunaíodh in 2010. Áirítear leis an nGrúpa seo ionadaithe ón mBiúró, an Garda Síochána, Custam na hÉireann, an PSNI, an SOCA, HMRC agus Gníomhaireacht Teorann na RA. Dhírigh an grúpa ar Ghrúpaí um Choireacht Eagraithe a bhí bainteach i smuigleáil toitíní agus tobac. Is éard a bhí mar thoradh air seo go ndearnadh imscrúdú ar líon daoine agus grúpaí de bhun shainchúram reachtúil an Bhiúró a rabhthas in amhras orthu bheith bainteach in iompar coiriúil sa limistéar seo.

6.16 Mar thoradh ar ghrúpa coireachta eagraithe a shainaitheant ar a rabhthas in amhras go raibh baint acu i sciúradh breosla agus i smuigleáil toitíní ag an nGrúpa Forfheidhmithe Trasteorann um Chalois Tobac, cuireadh tús le himscrúdú ilghníomhaireachta. Chabhraigh an Biúró leis an Aonad um Choireacht Eagraithe, na Seirbhísí Náisiúnta Tacaíochta, Oifig na gCoimisinéirí Ioncaim, Coimisinéirí Ioncaim agus Custam na Banríona (HMRC), Seirbhís Póilíneachta Thuaisceart Éireann (PSNI) agus Oifig Rannóige chun sprioc a dhéanamh den ghrúpa seo agus rinneadh áis sciúrtha breosla i réigiún na Teorann a shainaitheant agus rinneadh sprioc den áis seo. Is éard a d'eascair as an imscrúdú seo urghabháil ionad sofaisticiúil sciúrtha breosla agus cúig (5) gharáiste miondíola a dhúnadh i bPoblacht na hÉireann. Bhí imscrúduithe agus gníomhartha a lean astu fós ar bun amhail an 31/12/2011, de bhun shainchúram reachtúil an Bhiúró agus bhí comhaid á réiteach lena gcur faoi bhráid an DPP.

Caibidil 7

7. CONCLÚID

- 7.1 I gcaitheamh na bliana, lean an Biúró ag dul sa tóir ar a sainchúram reachtúil agus i pé áit gurbh fhéidir, le sprioc a dhéanamh d'fháltais ó iompar coiriúil, agus leas á bhaint as forálacha na reachtaíochta um Fháltais Choireachta, Ioncaim agus Leasa Shóisialaigh, sa chás cuí. Rinneadh na forálacha a chumasaíonn an Biúró chun leas a bhaint as an gcur chuige ilghníomhaireachta, ildisciplíneach seo, a ghairm go hiomlán ina leith seo.
- 7.2 Rinne an Biúró sprioc de shócmhainní a d'eascair as iompar éagsúil amhrasta coiriúil, lena n-áirítear gáinneáil drugaí, calaois, gadaíocht, sciúradh agus smuigleáil breosla agus trádáil neamhdhleathach tobac. Rinne an Biúró sprioc de shócmhainní éagsúla, lena n-áirítear airgead, cistí i gcuntais bhainc, réadmhaoin (lena n-áirítear tithe cónaithe, tráchtála agus saoire), mótarfheithiclí, bannaí, seodra agus bád. D'eascair barrachas €2.7 milliún a chur ar aghaidh chuig an státchiste faoin reachtaíocht um Fháltais Choireachta, as na himscrúduithe faoinar thug an Biúró agus na himeachtaí agus na gníomhartha iarmhartacha. Ina theannta sin, bailíodh breis agus €3.8 milliún de cháin agus rinneadh breis ar €450,000 de ró-íocaíochtaí Leasa Shóisialaigh a aisghabháil, agus cuirtear sonraí fúthu siúd ar fáil i gCaibidil 4 den tuarascáil.
- 7.3 I gcaitheamh na bliana, dhírigh an Biúró ar líon cásanna fadmharthanacha a bhí os comhair na Cúirte faoin reachtaíocht um Fháltais Choireachta, as ar eascair fiche a trí (23) cás a chur i gcrích.
- 7.4 I gcaitheamh 2011, thug an Biúró faoi líon imscrúduithe ar shócmhainní a d'eascair as calaois agus as gadaíocht shubstaintiúil. Bhí na himscrúduithe seo mar thoradh, ní hamháin, ar aisghabháil suimeanna substaintiúla airgid a bhí mar thoradh ar fháltais choireachta, ach ar chistí a shainnithint ónar féidir le híospartaigh na coireachta cailteanais a aisghabháil i líon cásanna.
- 7.5 Dhírigh an Biúró, le linn 2011, ar mhí-úsáid shuntasach an chórais Leasa Shóisialaigh agus rinne siad an méid oifigeach a thug siad ar iasacht ón Roinn Coimirce Sóisialaí a mhéadú. Is éard a d'eascair as seo méadú ar aisghabháil airgid ó chalaos Leasa

Shóisialaigh agus ó chásanna a atreorú chuig an DPP le breithniú a dhéanamh ar ionchúisimh sa limistéar seo.

- 7.6 Go hidirnáisiúnta, lean an Biúró i mbun teagmhála, agus sa chás cuí, le tabhairt faoi imscrúduithe i gcomhthráth leis na húdaráis um fhorfheidhmiú dlí agus leis na húdaráis bhreithiúnacha ar fud na hEorpa agus an domhain agus sprioc a dhéanamh de shócmhainní a eascraíonn ó iompar amhrasta coiriúil. Lean an Biúró lena gcaidreamh le Interpol, Europol agus le Líonra Idirghníomhaireachta um Aisghabháil Sócmhainní Camden (CARIN) a fhorbairt agus lean siad orthu bheith mar an Oifig shannta um Aisghabháil Sócmhainní (OAS) in Éirinn. Lean an Biúró ag oibriú leis coiste stiúrtha CARIN agus ghlac siad páirt ghníomhach i gcomhdháil bhliantúil an ghrúpa a bhí ar siúl sa Bhulgáir i Meán Fómhair.
- 7.7 Is ann go fóill do thionchar an chúlaithe gheilleagraigh, amhail a bhí faoi thrácht i dTuarascáil Bhliantúil 2010 an Bhiúró um Shócmhainní Coiriúla. Ar a shon sin, leanann an Biúró le straitéisí a fhorbairt lena chinntiú, i ngach cás agus is féidir, go ndéantar sprioc de shócmhainní, tar éis dul i dteagmháil le hinstitiúidí airgeadais sa chás cuí, ionas go mbaintear nó go gcoinnítear tairbhí sócmhainní nó gnóthachain ó iompar coiriúil ó choirpigh amhrasta.
- 7.8 Faoi mar a sonraíodh i dtuarascálacha roimhe seo, níor ionadaíodh duine amháin (1) de na hAturnaetha a sannadh d'Aonad an Phríomh-Aturnae Stáit. Chruthaigh sé seo riaráistí oibre agus chuir sé seo leis an líon cásanna nua a laghdú a bhféadfaí tús a chur leo i gcúrsa na bliana. Réitigh an Biúró, i gcomhairliúchán leis an bPríomh-Aturnae Stáit plean gnó ina bhféachtar le foireann ionaid a fháil d'fhonn dul i ngleic leis na riaráistí seo agus le feabhas a chur ar tháirgiúlacht laistigh den Bhiúró.
- 7.9 Agus a gcuspóirí á mbaint amach acu, chuaigh an Biúró i ndlúth-theagmháil leis an nGarda Síochána, na Coimisinéirí Ioncaim, an Roinn Coimirce Sóisialaí agus an Roinn Dlí agus Cirt agus le gach gníomhaireacht um fhorfheidhmiú dlí sa Stát chun straitéis comhtháite a fhorbairt chun sprioc a dhéanamh de shócmhainní agus de bhrabúis atá díorthaithe ó iompar coiriúil. Meastar gurb uirlis éifeachtach an straitéis seo sa chomhrac foriomlán i leith coireacht eagraithe.

Aguisín 1

CUSPÓIRÍ AN BHIÚRÓ

Alt 4 den Acht fán mBiúró um Shócmhainní Coiriúla, 1996 arna leasú ag an Acht um Fháltais ó Choireacht (Leasú), 2005.

4.—Faoi réir an Achta seo, is iad seo na cuspóirí a bheidh ag an mBiúró—

- (a) sócmhainní a aithint, cibé áit a bhfuil siad, a bhaineann le daoine, a thagann nó a mheastar go dtagann, go díreach nó go hindíreach, ó ghníomhaíocht choiriúil,
- (b) beart iomchuí a ghlacadh faoin dlí leis na sócmhainní sin, ina n-iomláine, nó i bpáirt, mar a d'fhéadfadh a bheith iomchuí, a choimeád ó na daoine sin nó a dhiúltú orthu, agus
- (c) tabhairt faoi aon imscrúdú nó aon réamhobair eile i dtaca le himeachtaí ar bith a éiríonn ó na cuspóirí a luaitear in ailt (a) agus (b).

FEIDHMEANNA AN BHIÚRÓ

Alt 5 den Acht fán mBiúró um Shócmhainní Coiriúla, 1996 arna leasú ag an Acht um Fháltais ó Choireacht (Leasú), 2005.

5.—(1) Gan dochar d'fhairsinge Alt 4, is iad na feidhmeanna a bheidh ag an mBiúró, ag oibriú trína n-oifigigh, ná gach beart riachtanach a dhéanamh —

- (a) de réir fheidhmeanna an Gharda Síochána, chun críocha, coigistiú, srianadh, úsáide, calcadh, caomhnú nó urghabháil sócmhainní a aithnítear mar shócmhainní a thagann nó a mheastar go dtagann, go díreach nó go hindíreach, ó ghníomhaíocht choiriúil,
- (b) faoi na hAchtanna Ioncaim nó aon fhoráil d'aon achtú eile, cibé acu ar achtaíodh é roimh nó tar éis achtú an Achta seo, a bhaineann le hioncam, le cinntiú go dtagann fáltais ó ghníomhaíocht choiriúil amhrasta faoi réir cánach agus go gcuirtear na hAchtanna Ioncaim, nuair is iomchuí, i bhfeidhm go hiomlán ar fháltais nó ar ghníomhaíochtaí mar iad, de réir mar a bheidh,
- (c) faoi na hAchtanna Leasa Shóisialaigh le haghaidh imscrúdú agus cinneadh, de réir mar is iomchuí, aon éilimh ar nó i dtaca le sochar (laistigh de bhrí Alt 204 den Acht Leasa Shóisialaigh (Comhdhlúthú), 1993) ag duine ar bith atá bainteach le gníomhaíocht choiriúil, agus
- (d) ar iarraidh an Aire Leasa Shóisialaigh, imscrúdú nó cinneadh a dhéanamh, de réir mar is iomchuí, ar aon éileamh ar nó i dtaca le sochar, laistigh de bhrí Alt 204 den Acht Leasa Shóisialaigh (Comhdhlúthú), 1993, nuair a dheimhníonn an tAire Leasa Shóisialaigh go bhfuil forais réasúnta ann a chreidiúint i gcás imscrúdú ar leith, go bhféadfadh oifigigh an Aire Leasa Shóisialaigh a bheith faoi réir bagairtí nó foirmeacha eile imeaglaithé,

agus áirítear ar bhearta den sórt sin, de réir mar is iomchuí, faoi réir aon chomhaontú idirnáisiúnta, comhoibriú le haon fhórsa póilíní, nó aon údarás, ar údarás aisghabhála fáltais ó choireacht, cánach nó slándáil shóisialta é, in aon chríocha nó stát seachas an Stát.

(2) I dtaca le gnéithe a dtagraítear dóibh i bhfo-alt (1), ní fhorléireofar rud ar bith san Acht seo mar ghné a théann i gcion nó a shrianann ar bhealach ar bith —

- (a) cumhachtaí nó dualgais an Gharda Síochána, na gCoimisinéirí Ioncaim nó an Aire Leasa Shóisialaigh, nó
- (b) feidhmeanna an Ard-Aighne, an Stiúrthóra Ionchúiseamh Poiblí nó an Phríomh-Aturnae Stáit.