

White Collar Crime - Ireland

Anglo Irish Bank: court criticises inaction in criminal wrongdoing cases

Contributed by [WhitneyMoore](#)

May 31 2011

The High Court⁽¹⁾ has strongly criticised delays and inaction by the state in prosecution of white collar crime.

An application had been made by the authorities for a time extension to deal with material seized from Anglo Irish Bank for investigation in relation to allegations of unlawful financial assistance for the purchase of shares in the bank, actions resulting in misleading financial statements, misleading their auditors and false or misleading information in public statements.

The court allowed only half the time sought and stated that it expected much progress to be achieved.

Justice Peter Kelly said:

"The collapse of Anglo Irish Bank Corporation Limited (Anglo) has had profound and serious consequences for the economic wellbeing of this State and its citizens. It has caused much hardship to many small shareholders who invested in it in good faith. It played no small part in seriously damaging Ireland's business reputation throughout the world. In such circumstances, one could reasonably expect that the relevant authorities in the State would carry out a comprehensive investigation so as to ascertain whether any breach or breaches of the criminal law might have occurred in respect of the activities of Anglo and those who were responsible for it."

The judge acknowledged the difficulties of processing the information and that some people had been uncooperative in making statements or had not yet provided them.

He stated:

"This case may be unique as to its complexity and the volume of material that has to be assimilated but it is certainly not unique in its speed, or rather lack of it. Over the last few years, I have sent papers for consideration by the relevant investigation and prosecution authorities in a number of Commercial Court cases where Judgments for many millions and indeed tens of millions of euros were given against individuals where there was prima facie evidence of criminal wrongdoing on their part. In some such cases admissions of wrongdoing were made. Despite the fact that years have passed since the papers were referred to the authorities, no prosecutions have ensued and little appears to have been done."

The judge also stated that he was not alone in his disquiet.

The government has since published a bill⁽²⁾ to improve procedural matters with the intention of reducing delays associated with the investigation and prosecution of complex crime, in particular white collar crime. The bill provides for court orders to identify and categorise documents to be produced in a particular manner, and for information statements to be made.

The bill also makes it an offence not to disclose to the *Gardai* (ie, the police) as soon as practicable information believed to be of material assistance in preventing a relevant offence being committed (including business practices of a company with intent to defraud) or in securing the prosecution of a relevant offence.

However, the provision of adequate funding to the authorities is also essential.

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Endnotes

(1) In the matter of Anglo Irish Bank Corporation Limited and the Companies Acts 2011 IEHC 164.

(2) Criminal Justice Bill 2011.

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