European legal instruments against corruption – Czech experience

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Corruption cases in our department

**Purely corruption cases**
(charges for active bribery, passive bribery or influence trading)

**Economic cases with suspected corruption in background**
(charges for breach of trust, public tender plot etc.)
# European arrest warrant (EAW)

## European legal framework

<table>
<thead>
<tr>
<th>Framework Name</th>
<th>Document Reference</th>
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</thead>
<tbody>
<tr>
<td><strong>COUNCIL FRAMEWORK DECISION</strong></td>
<td>OJ L 190 of 18.7.2002</td>
</tr>
<tr>
<td><strong>on the European arrest warrant and the surrender procedures between Member States</strong></td>
<td>CELEX 32002F0584</td>
</tr>
<tr>
<td><strong>(2002/584/JHA)</strong></td>
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## National legal framework

<table>
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<tbody>
<tr>
<td><strong>CZECH CRIMINAL PROCEDURE CODE</strong></td>
<td>Sections 403-422</td>
</tr>
<tr>
<td><strong>No. 141/1961 Coll.</strong></td>
<td></td>
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</table>
Double criminality requirement waiver

Article 2 paragraph 2
Scope of the European arrest warrant

2. The following offences, if they are punishable in the issuing Member State by a custodial sentence or a detention order for a maximum period of at least three years and as they are defined by the law of the issuing Member State, shall, under the terms of this Framework Decision and without verification of the double criminality of the act, give rise to surrender pursuant to a European arrest warrant:

- participation in a criminal organisation,
- **corruption**,  
- **fraud**, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests,
Nationals

Nationality is not a reason to refuse the extradition
EAW case

Offence in the Czech Republic

Offender in the Slovak Republic

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### Police cooperation

**CONVENTION IMPLEMENTING THE SCHENGEN AGREEMENT**

of 14 June 1985

CELEX 2000A0922(02)

**Article 40**

1. Officers of one of the Contracting Parties who, as part of a criminal investigation, are keeping under surveillance in their country a person who is presumed to have participated in an extraditable criminal offence shall be authorized to continue their surveillance in the territory of another Contracting Party where the latter has authorized **cross-border surveillance** in response to a request for assistance made in advance.

### Judicial cooperation

**SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

of 8 November 2001

Article 17 – Cross-border observations

1. Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorized to continue their observation in the territory of another Party where the latter has authorized cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorization.
Trasborder observation case

Tax evasion case + Proceeds (over 1 000 000 €) = Corruption case

Fighting against corruption - Beograd
3. **European evidence freezing order**

<table>
<thead>
<tr>
<th>European legal framework</th>
<th>National legal framework</th>
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<tbody>
<tr>
<td>COUNCIL FRAMEWORK DECISION 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence</td>
<td>• <strong>CZECH CRIMINAL PROCEDURE CODE</strong></td>
</tr>
<tr>
<td></td>
<td>• No. 141/1961 Coll.</td>
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<tr>
<td></td>
<td>• Sections 460a-460n</td>
</tr>
<tr>
<td>OJ L 196, 2.8.2003, p. 45</td>
<td></td>
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<tr>
<td>CELEX 32003F0577</td>
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Important provisions

• **Article 2 paragraph 2:**

The following offences, if they are punishable in the issuing State by a custodial sentence of a maximum period of at least three years shall not be subject to verification of the double criminality of the act:

- participation in a criminal organisation,
- corruption,
- fraud, including that affecting the financial interests of the European Communities Article 5

• **Article 5 paragraph 3:**

The competent judicial authorities of the executing State shall decide and communicate the decision on a freezing order as soon as possible and, whenever practicable, within 24 hours of receipt of the freezing order.
2.8.2003

Official Journal of the European Union

L 196/51

ANNEX

CERTIFICATE PROVIDED FOR IN ARTICLE 9

(a) The judicial authority which issued the freezing order:

Official name: ……………………………………………………………………………………………………………………

Name of its representative: ………………………………………………………………………………………………………

Post held (title/grade): ………………………………………………………………………………………………………

File reference: …………………………………………………………………………………………………………………

Address: ……………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………

Tel: (country code) (area/city code) (…) …………………………………………………………………………………

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Evidence freezing order case

Hungarian Plc.

Czech Plc.

Crime

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Thank you for your attention

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