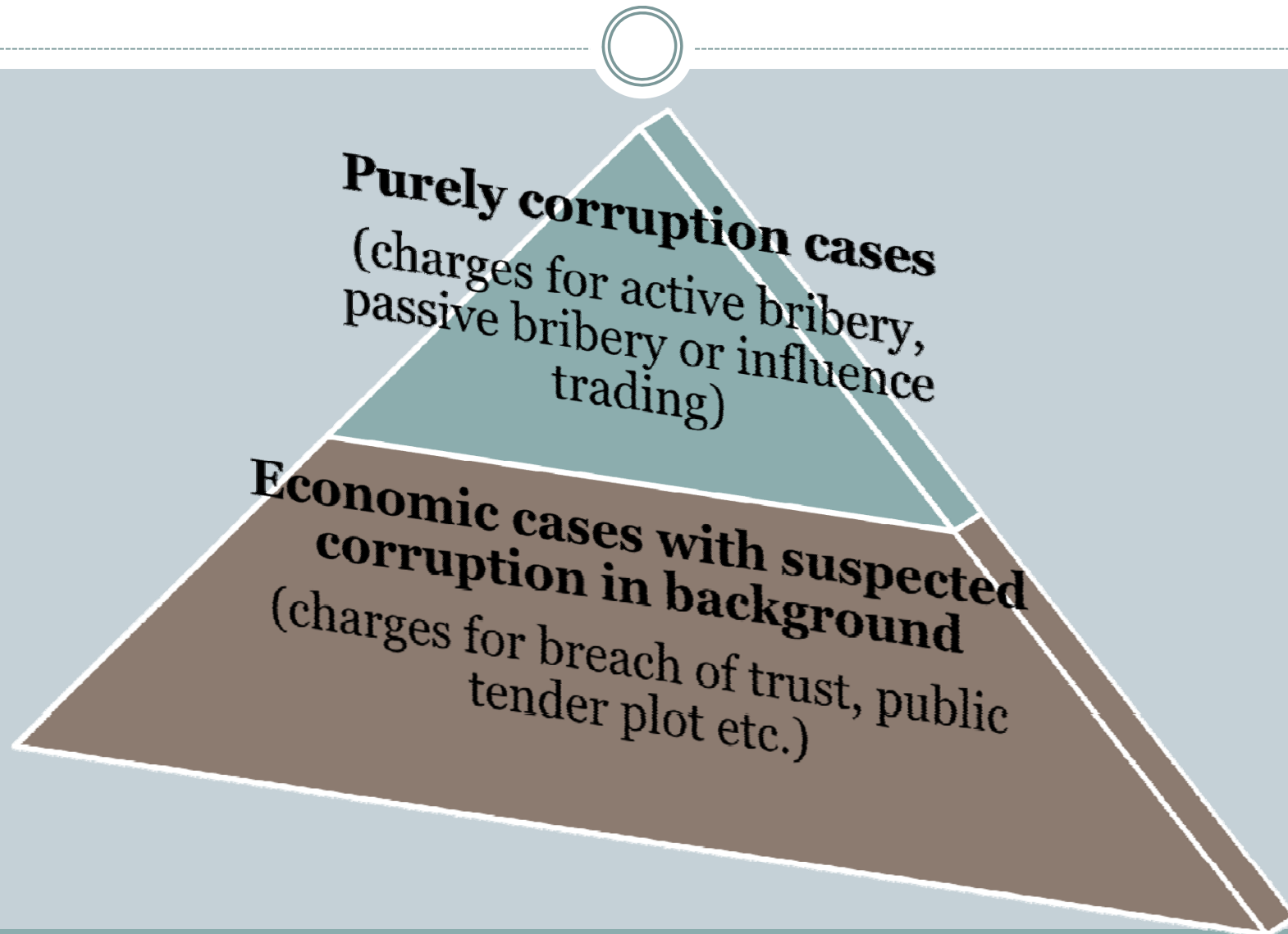


European legal instruments against corruption – Czech experience

Miroslav Špecián
Municipal Prosecution Office Prague
Economic Crime Department



Corruption cases in our department



European arrest warrant (EAW)



European legal framework

**COUNCIL FRAMEWORK
DECISION**
of 13 June 2002
on the European arrest warrant
and the surrender procedures
between Member States
(2002/584/JHA)

OJ L 190 of 18.7.2002

CELEX 32002F0584

National legal framework

**CZECH CRIMINAL
PROCEDURE CODE**
No. 141/1961 Coll.

Sections 403-422

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



Transborder surveillance



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

3. European evidence freezing order



European legal framework

**COUNCIL FRAMEWORK
DECISION 2003/577/JHA
of 22 July 2003
on the execution in the
European Union of orders
freezing property or evidence**

OJ L 196, 2.8.2003, p. 45

CELEX 32003F0577

National legal framework

- **CZECH CRIMINAL
PROCEDURE CODE**
- **No. 141/1961 Coll.**
- **Sections 460a-460n**

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.

Certificate



2.8.2003 EN 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):

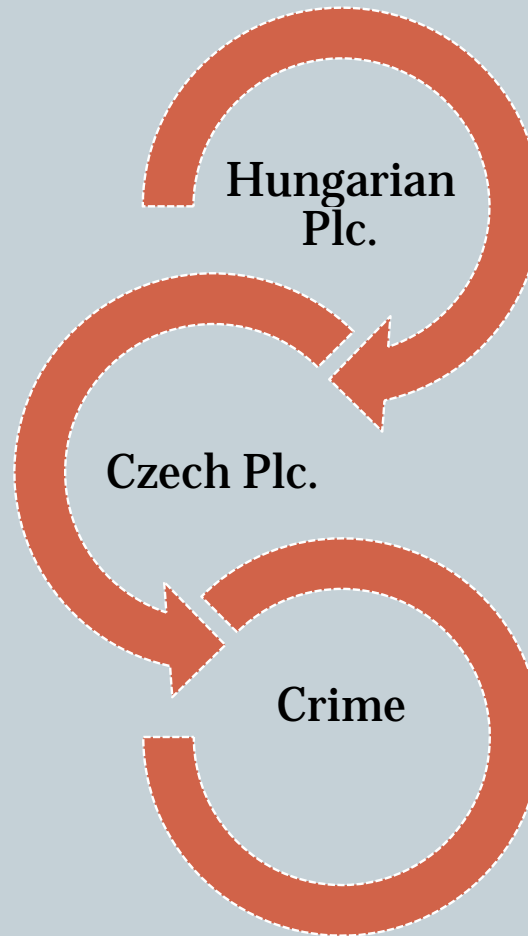
File reference:

Address:

.....

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

Evidence freezing order case



Thank you for your attention



MĚSTSKÉ STÁTNÍ ZASTUPITELSTVÍ V PRAZE

Nám. 14. října 9, 150000 Praha 5

Czech Republic

MSpecian@msz.pha.justice.cz