

Czech Republic – national procedures for mutual legal assistance on  
laundering, search, seizure and confiscation of proceeds of crime  
(ETS No. 141)  
Updated 02/11/2016

The information contained in this table should be updated on a yearly basis.

| Procedure for search (asset-tracing) and seizure   |   |
|--|---|
| <p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):</p> | <p>1. For the purposes of criminal proceedings:</p> <p>a) the Supreme Prosecutor’s Office of the Czech Republic for requests originating from pre-trial proceedings;</p> <p>b) the Ministry of Justice of the Czech Republic for other requests;</p> <p>2. For all other cases: the Ministry of Finance of the Czech Republic.</p> <p>Addresses of the above-mentioned central authorities:</p> <p>Supreme Prosecutor’s Office of the Czech Republic<br/>address: Jezuitská 4, 660 55 Brno, Czech Republic<br/>Tel.: (+420) 5 4251 2330<br/>Fax : (+420) 5 4251 2350<br/>e-mail : mo@nsz.brn.justice.cz</p> <p>Ministry of Justice of the Czech Republic<br/>address: Vyšehradská 16, 128 00 Praha 2, Czech Republic<br/>Tel.: (+420) 2 2199 7435<br/>Fax : (+420) 2 2199 7986<br/>e-mail : mot@msp.justice.cz</p> <p>Ministry of Finance of the Czech Republic<br/>address: Letenská 15, 118 10 Praha 1, Czech Republic<br/>Tel.: (+420) 2 5704 1111<br/>Fax : (+420) 2 5704 2788<br/>e-mail : podatelna@mfcz.cz</p> |

|  |  |
|--|--|
| <p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p> |  |
| <p>Channels of communication for the request for mutual legal assistance (directly, or other):</p>   | <p>Unless stipulated otherwise by a Convention or a bilateral treaty, according to Section 8 of the Act on International Judicial Cooperation in Criminal Matters the judicial authorities will liaise with foreign authorities through their central authorities. The central authorities will liaise with foreign authorities via diplomatic channels. The Strasbourg Convention provides direct contacts between central authorities. The Czech Republic did not make a declaration according to Art 21 par. 2.</p>   |
| <p>Means of communication (e.g. by post, fax, e-mail<sup>1</sup>):</p>   | <p>Unless stipulated otherwise by a Convention or a bilateral treaty, authorities in the Czech Republic may initiate proceedings on the basis of a request from an authority of a foreign State delivered by telephone, fax or electronically by the means of international police cooperation, personally or otherwise in accordance with the relevant legal provisions, provided they have no doubts regarding its authenticity and the case does not allow for delay. The original of the request must be submitted subsequently within the time limit determined by the requested authority.</p> |
| <p>Language requirements:</p>  | <p>Unless stipulated otherwise by a Convention or a bilateral treaty, the translation into Czech language is required.</p>   |
| <p>Double criminality requirement, if applicable:</p>  | <p>Double criminality is required for these investigation acts (Sec. 47(2) of the Act on International Judicial Cooperation in Criminal Matters): seizure, search, intercepting and opening consignments and its replacement, monitoring consignments, interception and recording of</p>   |

---

<sup>1</sup> Please indicate if encryption or electronic signature is required.

|  |   |
|--|---|
|  | <p>telecommunications, inspection of mental state, use of operative-search means and covert investigation. International treaties that are ratified, valid on international level and published in the CR are entire the part of legal order of the CR and they can stipulate also other conditions.</p>  |
| <p>Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods:</p>                 | <p>- seizure of proceeds of crime: apart of basic elements of a MLA request it is necessary to demonstrate a link between the proceeds and the criminal offence</p> <p>- seizure of an equivalent value: apart of basic elements of a MLA request it is necessary to demonstrate that property to be seized is a property of accused person and it is proportionate to damaged caused by a crime</p>  |
| <p>Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.:</p> | <p>Apart of basic elements of a MLA request it is necessary to demonstrate a link between an investigative assistance and the criminal offence. Investigation technics as simulated transfer and surveillance of persons and items can be executed only in proceedings on an intentional criminal offence. Use of an agent (covert investigation) and interception and recording of telecommunications can be executed only in proceedings conducted for a crime, for which the law prescribes a sentence of imprisonment with the upper limit of at least eight years and for crimes listed in Sec 158e (1) of the Criminal Procedural Code or for another intentional criminal offence, to prosecution of which is the Czech Republic bound by a promulgated international treaty binding the Czech Republic.</p> <p>These operative-search means will not be used for any other purpose than for acquiring matters substantial for criminal proceedings. These means may be used only when the purpose in view may not be reached in other ways or if its reaching would otherwise be considerably more complicated. Rights and liberties of persons may be restricted only in an absolutely necessary extent.</p> |
| <p>Limitation of use of evidence obtained:</p>   | <p>Specialty Principle (Section 7 of the Act on International Judicial Cooperation in Criminal Matters):<br/>(1) Authorities of the Czech Republic will not use without a</p>   |

|   |   |
|---|---|
|   | <p>previous consent of the foreign authority information or evidence acquired within the framework of international judicial cooperation for other purposes, than for which they were provided, if they are so obliged according to a promulgated international treaty binding the Czech Republic, or if the information or evidence was provided under the condition of observing these restrictions. This also applies for provision thereof to a third state or an international organization.</p> <p>(2) In order to use information or evidence provided to a foreign state for another purpose, than it was provided for, an explicit consent of the judicial or central authority which provided the information or evidence will be necessary, unless an international treaty stipulates otherwise.</p> |
| <p>Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p> | <p>Apart of basic elements of a MLA request it is necessary to demonstrate a link between the property and the criminal offence.</p> <p>There are no precise time limits for a seizure in criminal proceedings, however, the seizure should last only as long as there is a reason for a seizure. A person concerned can ask for cancellation of a seizure any time.</p>  |
| <p>Available asset management system including preservative measures, (for example prejudgment selling), concerning the seized goods:</p>   | <p>The authority that decided on seizure is responsible for management of the seized assets. Generally, seized assets can only be sold before any confiscation order is made, if the accused agrees. However, there are three exceptions when seized assets can be sold without an agreement of an accused:</p> <ul style="list-style-type: none"> <li>a) there is a risk of destruction of assets or other hardly avertable damage,</li> <li>b) assets are losing considerably value in despite of due care,</li> <li>c) an accused escaped or went to hiding.</li> </ul> <p>(Section 12 of the Act No. 279/2003 Coll. on enforcement of seizure of assets and items in criminal proceedings)</p>  |
|   |   |
| <p>Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets.</p>  |   |
|   |   |

|  |   |
|--|---|
| The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/measures: | Ministry of Justice of the Czech Republic<br>address: Vyšehradská 16, 128 00 Praha 2, Czech Republic<br>Tel.: (+420) 2 2199 7435<br>Fax : (+420) 2 2199 7986<br>e-mail : mot@msp.justice.cz   |
|  |   |
| If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):              |   |
|  |   |
| Channels of communication for the request for mutual legal assistance (directly, or other):  | Unless stipulated otherwise by a Convention or a bilateral treaty, according to Section 8 of the Act on International Judicial Cooperation in Criminal Matters the judicial authorities will liaise with foreign authorities through their central authorities. The central authorities will liaise with foreign authorities via diplomatic channels. The Strasbourg Convention provides direct contacts between central authorities. The Czech Republic did not make a declaration according to Art 21 par. 2.   |
|  |   |
| Means of communication (e.g. by post, fax, e-mail <sup>2</sup> ):  | Unless stipulated otherwise by a Convention or a bilateral treaty, authorities in the Czech Republic may initiate proceedings on the basis of a request from an authority of a foreign State delivered by telephone, fax or electronically by the means of international police cooperation, personally or otherwise in accordance with the relevant legal provisions, provided they have no doubts regarding its authenticity and the case does not allow for delay. The original of the request must be submitted subsequently within the time limit determined by the requested authority. |
|  |   |
| Language requirements:   | Unless stipulated otherwise by a Convention or a bilateral treaty, the translation into Czech language is required.   |
|  |   |
| Document requirements and  | Apart of basic elements of a MLA request it is necessary to   |

<sup>2</sup> Please indicate if encryption or electronic signature is required.

|   |   |
|---|---|
| modalities/requirements for the procedure of confiscation:  | provide final decision on confiscation.   |
|   |   |
| <p>Other requirements, if applicable:</p> <p>For example: a link between the proceeds and the criminal offence.</p> <p>In case of money laundering, what are the requirements for the predicate offence(s):</p> | <p>- confiscation of proceeds of crime: apart of basic elements of a MLA request it is necessary to demonstrate a link between the proceeds and the criminal offence</p> <p>- confiscation of an equivalent value: apart of basic elements of a MLA request it is necessary to demonstrate that property to be seized is a property of accused person and it is proportionate to damaged caused by a crime</p> <p>All crimes can be the predicate offences.</p>   |
|   |   |
| <p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p>  | <p>Assets can be traced only before a verdict including a decision on confiscation order is made. The amendment to the law allowing tracing of assets also only for execution of confiscation order is now in the Parliament.</p>   |
|   |   |
| <p>Procedure for sharing of assets, if applicable:</p>  | <p>- the Czech Republic as a requested state:<br/>Section 135<br/>of the Act on International Judicial Cooperation in Criminal Matters</p> <p>Sharing of Forfeited or Confiscated Property</p> <p>(1) If such procedure is permitted by an international treaty or if reciprocity is guaranteed, the Czech Republic may enter into an agreement with a foreign state on sharing property confiscated or forfeited on the basis of a recognized foreign decision. The competence for entering such an agreement will pertain to the Ministry of Finance; petition for entering such an agreement may be filed by the court that decided on recognition and execution of the foreign decision in the first instance or the Ministry. The court or the Ministry will provide the Ministry of Finance upon its request the necessary cooperation for the purposes of entering the agreement.</p> <p>(2) The shared property will be transferred to the foreign state by organizational unit of the state competent to administer the property of the Czech Republic according to the Act on the Property of the Czech Republic and its Representation in Legal Relations.</p> <p>- the Czech Republic as a requested state:<br/>Section 140</p> |

|   |  |
|---|--|
|   | <p>of the Act on International Judicial Cooperation in Criminal Matters</p> <p>Sharing of Forfeited or Confiscated Property</p> <p>(1) When sharing property that has been confiscated or forfeited in a foreign state upon a request of the Czech Republic, it will be proceeded according to Section 135 (1) sentence one and two; upon a petition for entering into an agreement on sharing property may be filed to the Ministry of finance by the court that imposed the sentence or protective measure, on the basis of which was the property forfeited or confiscated, or the Ministry. The court or the Ministry will provide the Ministry of finance with the necessary cooperation for the purposes of entering the agreement upon its request.</p> <p>(2) The shared property will be taken over from the foreign state by the organizational unit of the state competent to administer the property of the Czech Republic according to the Act on the Property of the Czech Republic and its representation in Legal Relations.</p> |
| <p>Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:</p> | <p>The Czech Republic did not make a declaration according to Art 21 par. 2.</p>   |
|   |  |
| <p>Other particularly relevant information on special types of assistance</p>   |  |
|   |  |
| <p>Non Conviction Based Confiscation:</p>   | <p>The Czech Republic applies non conviction based confiscation only in criminal proceedings (a procedure with burden of proof according the Criminal Procedural Code).</p> <p>Section 101 Forfeiture of a Thing or Other Property Value of the Criminal Code</p> <p>(1) Unless a sentence of confiscation of a thing or other asset value under Section 70 (1) is imposed, the court may order that such thing or other asset value shall be seized,</p> <p>a) if it belongs to an offender who cannot be prosecuted or sentenced,</p> <p>b) if it belongs to an offender whose punishment has been waived by the court, or</p> <p>c) if it endangers safety of persons or property, eventually safety of society, or if there is a threat that it shall be used to commit a crime.</p>   |

(2) If conditions under Sub-section (1) are not met, the court may impose seizure of a thing or other asset value only if it is, even indirectly, proceeds of crime, especially if

- a) the thing or other asset value was obtained through criminal act or as a reward for such an act and it does not belong to the offender;
- b) the thing or other property value was acquired, even partially, by a person other than the offender for other thing or asset value that was obtained through criminal act or as a reward for such an act, if the value of the thing or other asset value acquired through such a criminal act or as a reward for such an act is not insignificant in relation to the value of the acquired thing or other asset value; or
- c) the thing or other asset value was acquired, even partially, by a person other than the offender for other thing or asset value which the offender, even partially, acquired for a thing or other asset value that was obtained through a criminal act or as a reward for such act, if the value of the thing or other asset value obtained through such a criminal act or as a reward for such an act is not insignificant in relation to the value of the acquired thing or other asset value.

(3) If the offender or other person unlawfully or contrary to another legal regulation possesses a thing or other asset value referred to in Sub-section (1) or (3), in relation to which is possible to impose forfeiture of a thing or other asset value, the court shall always impose this protective measure.

(4) Instead of imposing forfeiture of a thing or other asset value, the court may impose an obligation

- a) to modify the thing or other asset value in such a way to it could not be used for a purpose dangerous to society;
- b) to remove a certain devise;
- c) to remove a marking or make alterations to it; or
- d) to restrict disposition with such thing or other asset value;

and determine a reasonable time therefor.

(5) If the obligation referred to in Sub-section (4) is not fulfilled within the stated time, the court shall decide on forfeiture of the thing or other asset value.

Section 102 Forfeiture of Substitute Value  
of the Criminal Code

If a person, to whom a thing or other property value that



|   |   |
|---|---|
|   | <p>could be forfeited according to Section 101 (1) or (2) belongs, prior to ordering the forfeiture, destroys, damages or otherwise disvalues, alienates, renders unusable, removes or utilizes, partially consumes or otherwise circumvents forfeiture of such a thing or other asset value, or if he/she obstructs the execution of the sentence of forfeiture of a thing or other asset value by conduct contrary to the prohibition imposed under Section 70 (4), eventually if he/she obstructs forfeiture of a thing or other asset value by conduct contrary to the prohibition imposed under Section 104 (2), the court may order forfeiture of a substitute value up to a value not exceeding the value of such thing or other asset value. The value of a thing or other asset value, forfeiture of which may be ordered by court shall be determined by an elaborate professional opinion or an by an expert opinion.</p>  |
|   |   |
| <p>MLA regarding liability of legal persons (criminal, civil or administrative):</p>                    | <p>The Czech Republic applies a criminal liability of legal persons.</p>  |
|   |   |
| <p>Other information (for example, extended confiscation, confiscation for the purpose of victims):</p> | <p>Extended confiscation</p> <p style="text-align: center;">Section 66 Confiscation of Property<br/>of the Criminal Code</p> <p>(1) The court may, with regard to circumstances of a case and relations of an offender, impose a sentence of confiscation of property, if it sentences an offender to an exceptional sentence of imprisonment or for an especially serious felony by which has the offender gained or tried to gain for him/herself a proprietary benefit.</p> <p>(2) Without the conditions of Sub-section (1) may the court impose a sentence of confiscation of property only in the event that the Criminal Code allows imposing this sentence for a specific criminal offence; as a single penalty may a confiscation of property be imposed if with regard to the nature and gravity of the committed criminal offence and to the character and circumstances of the offender is imposition of another penalty not necessary.</p> <p>(3) Confiscation of property affects the whole property of an offender or a portion thereof designated by the court; however confiscation does not apply to means and things</p> |

|   |   |
|---|---|
|   | <p>necessary for satisfaction of necessities of life of the convict and persons, whose support or upbringing is the convict legally obliged to provide.</p> <p>(4) A sentence of confiscation of property terminates community marital property.</p> <p>(5) Confiscated property shall devolve to the state.</p> <p>(It is also a possibility to seize assets for the purpose of later extended confiscation according to Section 347 of the Criminal Procedural Code.)</p> <p>Victims:</p> <p>The victim can join criminal proceedings and ask for damages and a court can decide on damages within criminal proceedings. It is also a possibility to to seize assets for the purpose of later satisfaction of damages for a victim according to Section 47 of the Criminal Procedural Code.</p> |
|   |   |
| <p>Links to national legislation, national guides on procedure:</p> | <p>There are handbooks and other methodology tools in Czech language on Extranet of the Supreme Public Prosecutors Office and the Extranet of the Ministry of Justice that are not open to public.</p>  |