

1st International IFA Czech Branch  
Transfer Pricing Conference  
16 October 2018



25  
1993-2018



# Practical experience of a CFO at a MNE in the field of transfer pricing

Gabriela Hrachovinová  
Tax Advisor and Expert Witness



[www.kdpcr.cz/ifa2018](http://www.kdpcr.cz/ifa2018)



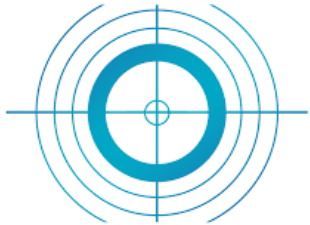
# Agenda

- Set the scene

The largest role in this piece:

## **Intra - group services**

- Short overview of general rules
- Case study - shareholder activity
- Case study - services typically available externally from independent enterprises
- Case study - re-invoicing of services in a MNE rendered by an associated enterprise
- Issues often arising in intra-group services
- Intra-group services policy and in-house TP department
- Changing role of CFOs

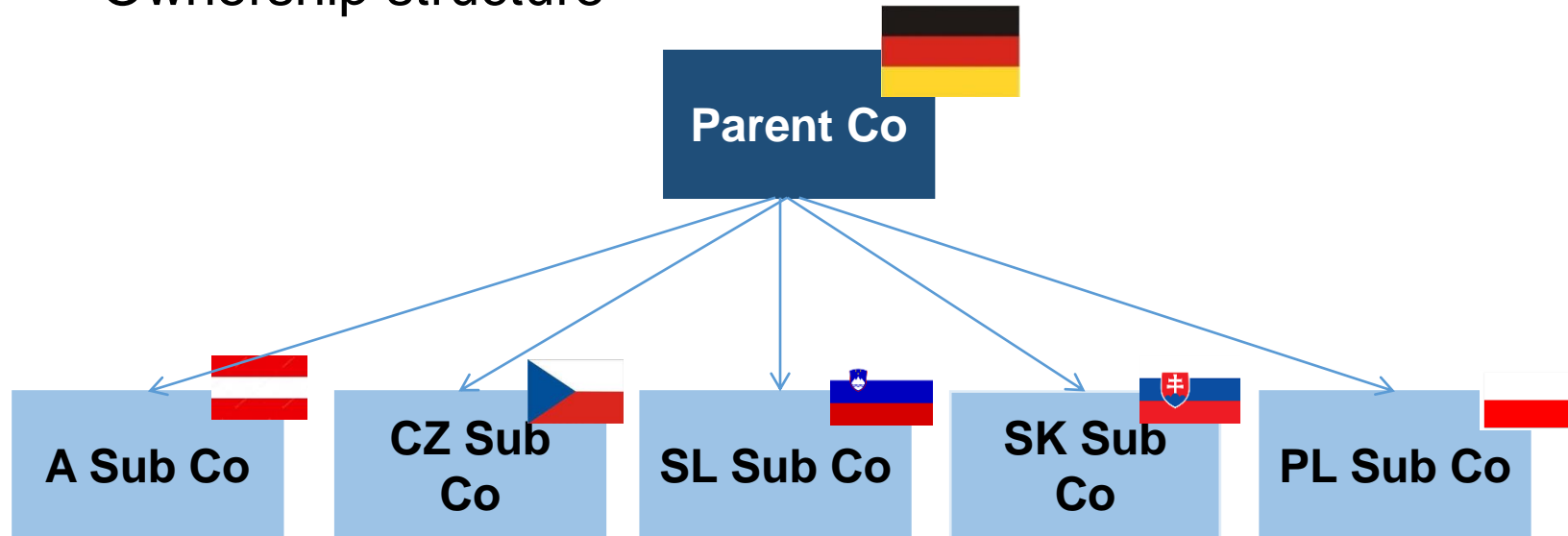


# Target of the presentation

**At the end of my presentation you will have an overview not only of transfer pricing but also of non-technical issues which a CFO has to deal with.**

# Set the scene

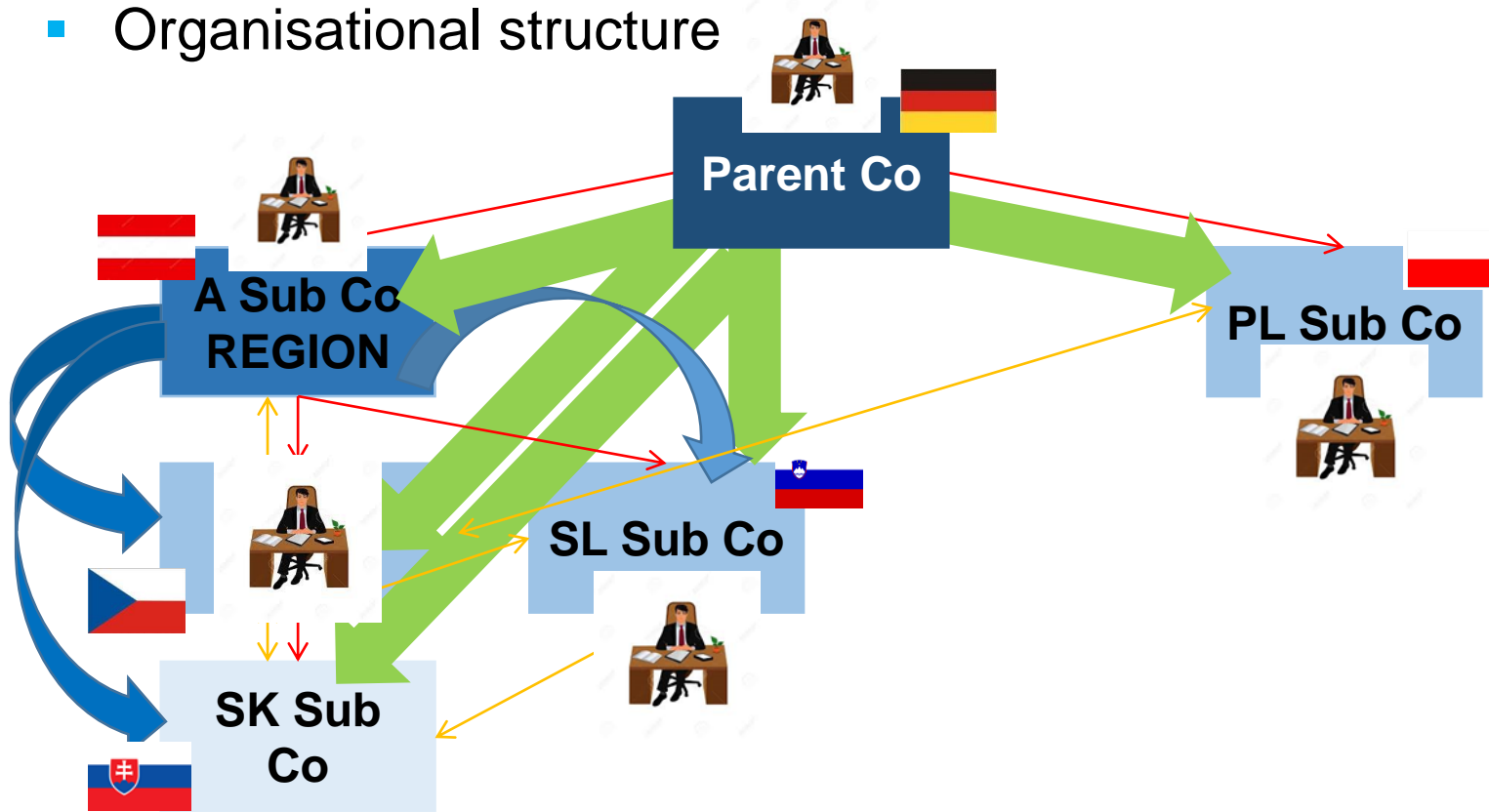
- Ownership structure



- Parent Co is the sole owner of the subsidiaries
- The core business of a MNE is retail - selling goods

# Set the scene

- Organisational structure

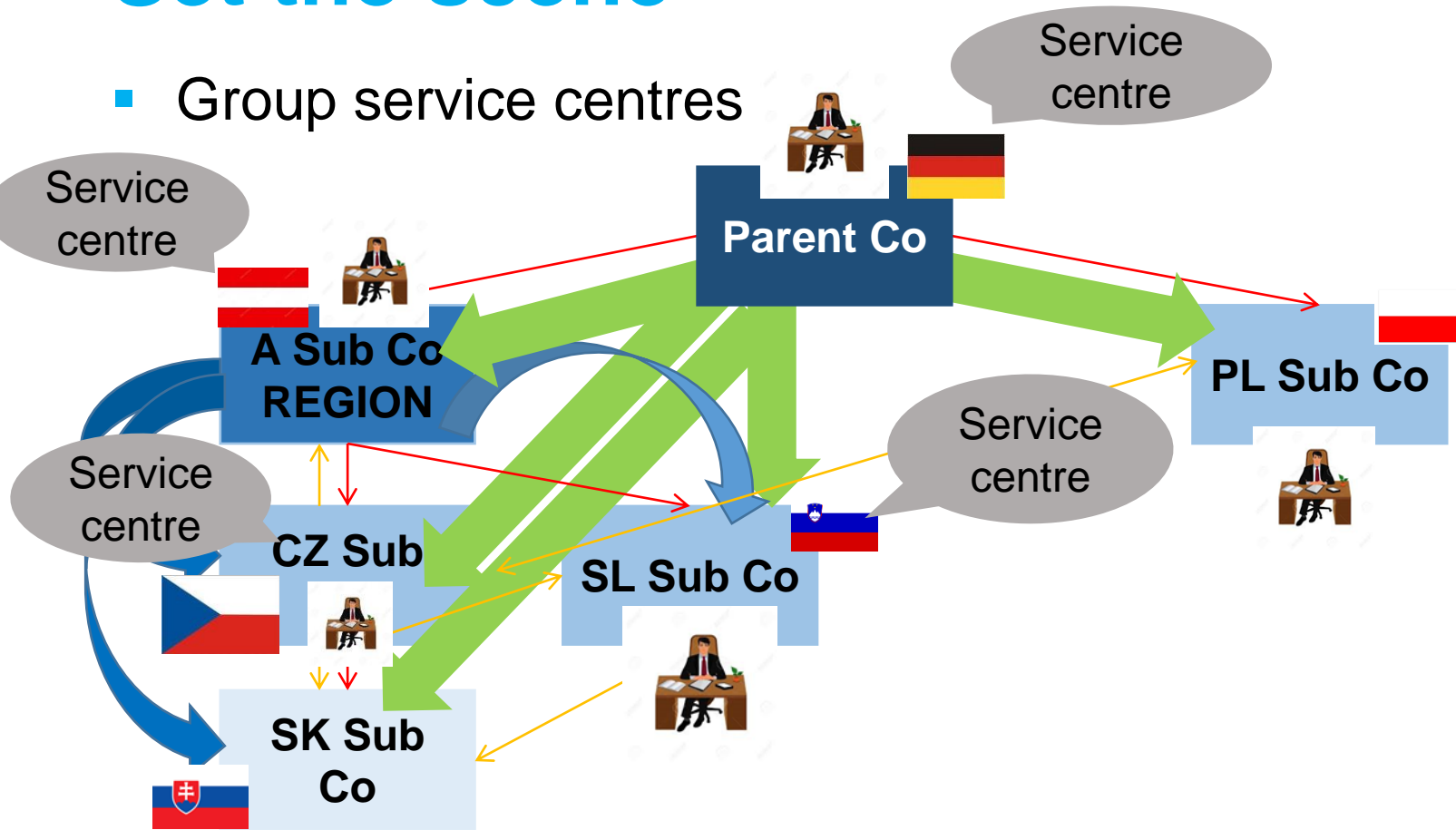


- Hierarchy
  - Flow of intra-group services from Parent Co
  - Flow of intra-group services from Regional Co
  - Flow of intra-group services among subsidiaries
- CFO



# Set the scene

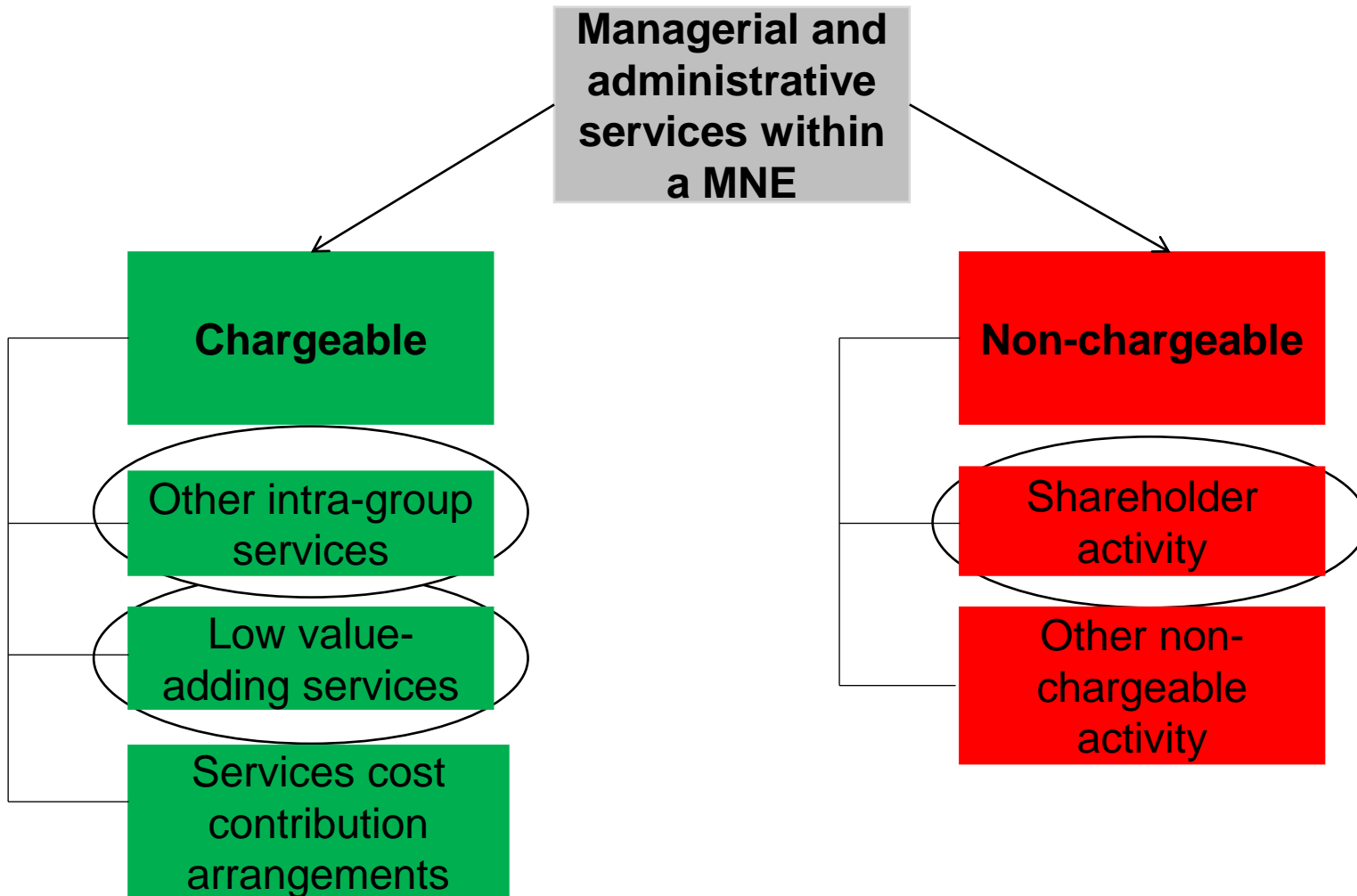
- Group service centres



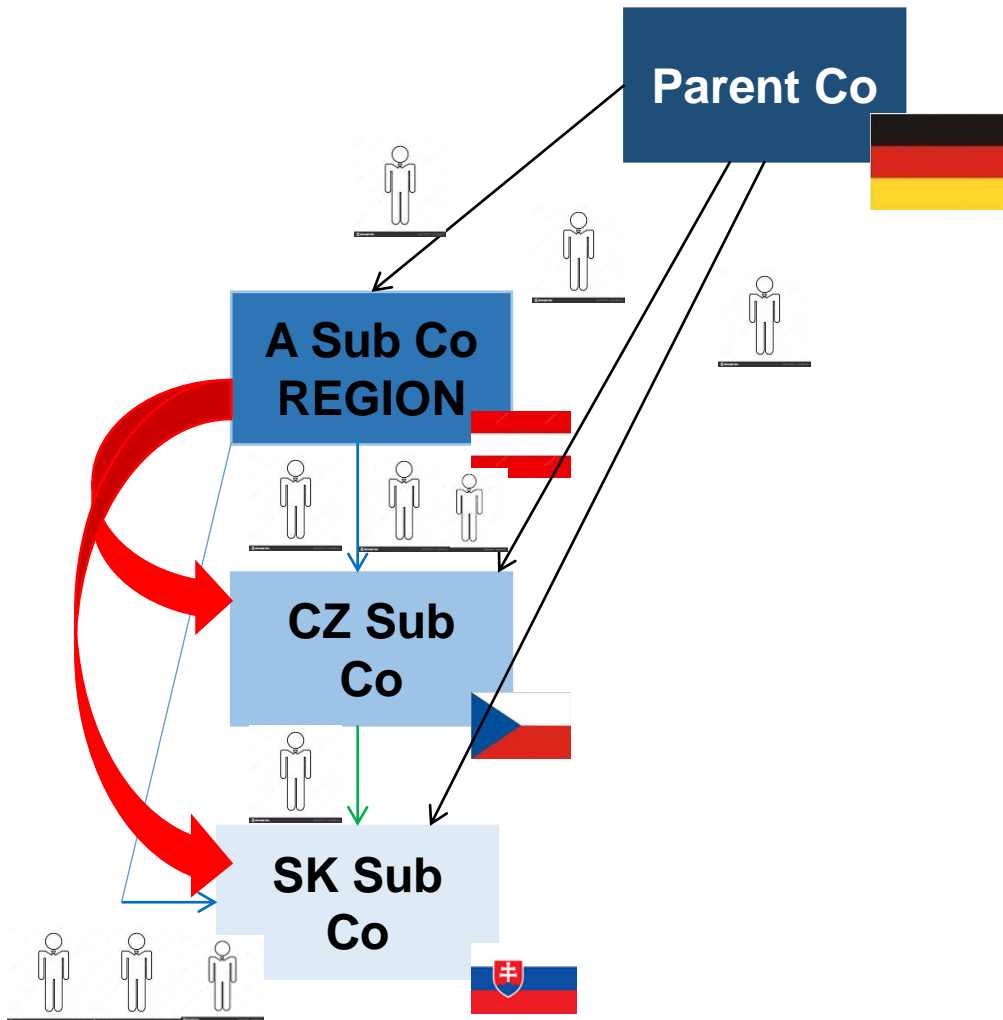
# Intra-group services – short overview of general rules

- Chapter VII of the OECD TP Guidelines for MNE and TAs, 2017 edition
  
- Reasons for using them:
  1. achieve of savings
  2. improve of efficiency
  3. support business
  4. minimize administrative burdens
  
- Two issues
  1. „Whether intra-groups services have in fact been provided“ – section B.1. of chapter VII
  2. „For tax purposes, what the intra-group charges for such services should be in accordance with the arm´s length principle“ – section B. 2. of chapter VII

# Intra-group services – short overview of general rules



# Shareholder activity – case facts



## ■ Facts:

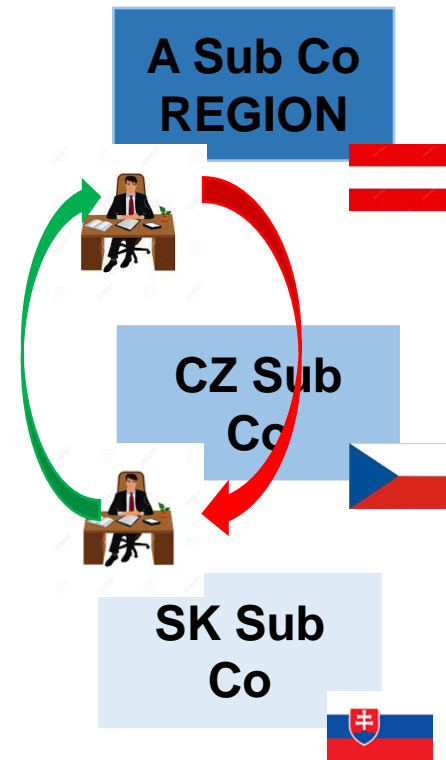
- Parent Co has its MD in A Sub Co Region and also in CZ Sub Co and SK Sub Co
- A Sub Co has its 2 MDs and 1 Proxy in CZ and SK Sub Cos
- CZ Sub Co has its 1 Czech MD, 2 Austrian MDs – 1 is a regional CFO, 1 German MD and 1 Austrian Proxy
- SK Sub Co has 1 Czech MD, 2 Austrian MDs one is a regional CFO, 1 German MD and 1 Austrian Proxy
- A Sub Co sends on monthly basis an invoice to CZ Sub Co and SK Sub Co for managerial activities of 2 Austrian MDs

# Shareholder activity – solution

- Solution and pitfalls:

- Contracts?
- Services?
- Analysis?

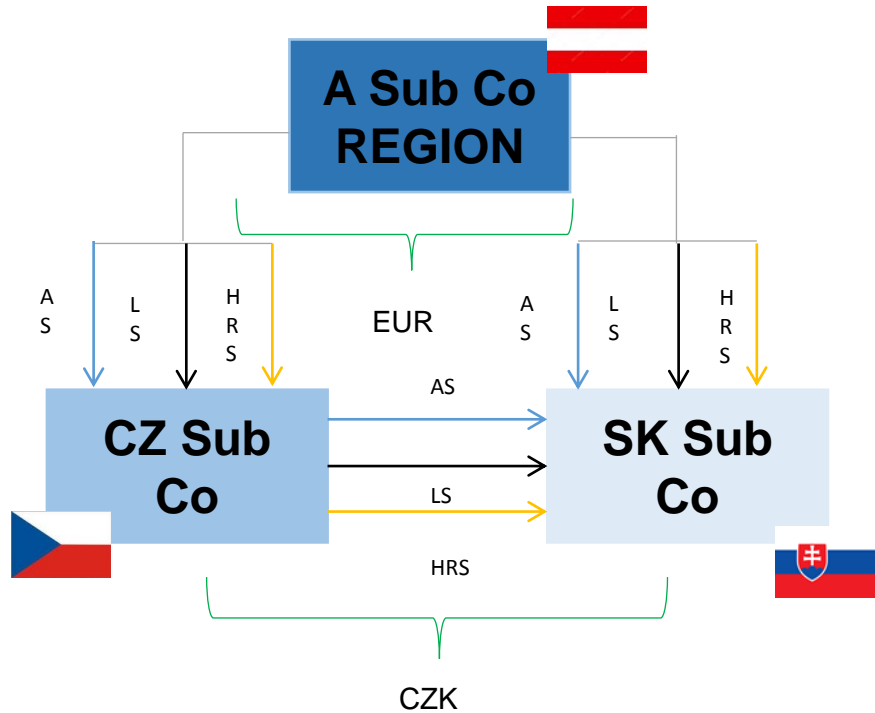
- CFO's conclusion: **non-chargeable services – shareholder activity**



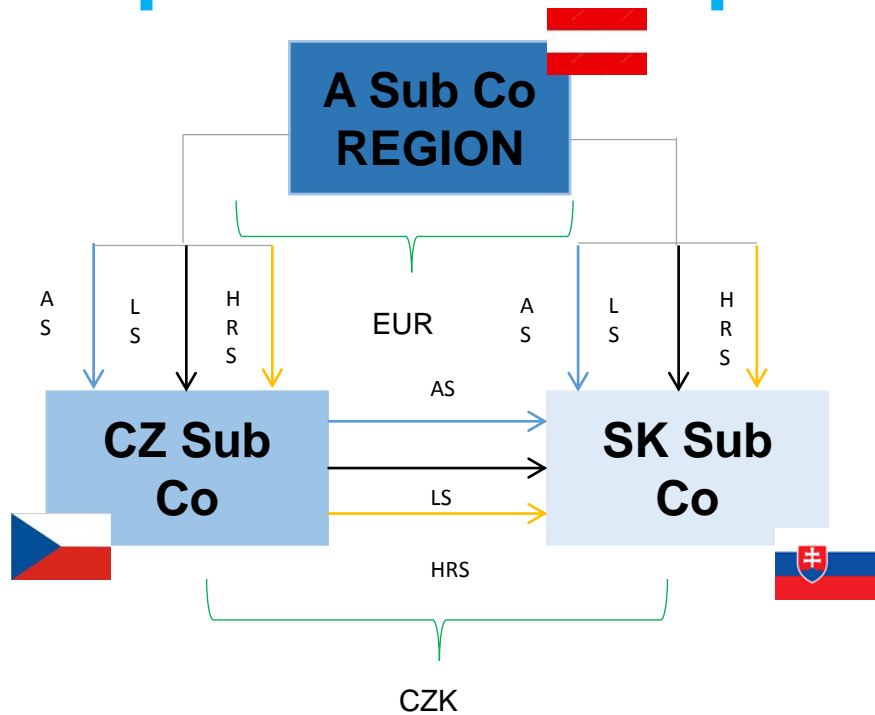
# Services typically available externally from independent enterprises – case facts

- Facts:

- A Sub Co provides different services to CZ and SK Sub Co
  - accounting services
  - legal services
  - HR
- CZ Sub Co provides accounting, legal and HR services to SK Sub Co too
- invoices are issued monthly upon a contract in EUR from A Sub Co and in CZK from CZ Sub Co



# Services typically available externally from independent enterprises – questions and pitfalls



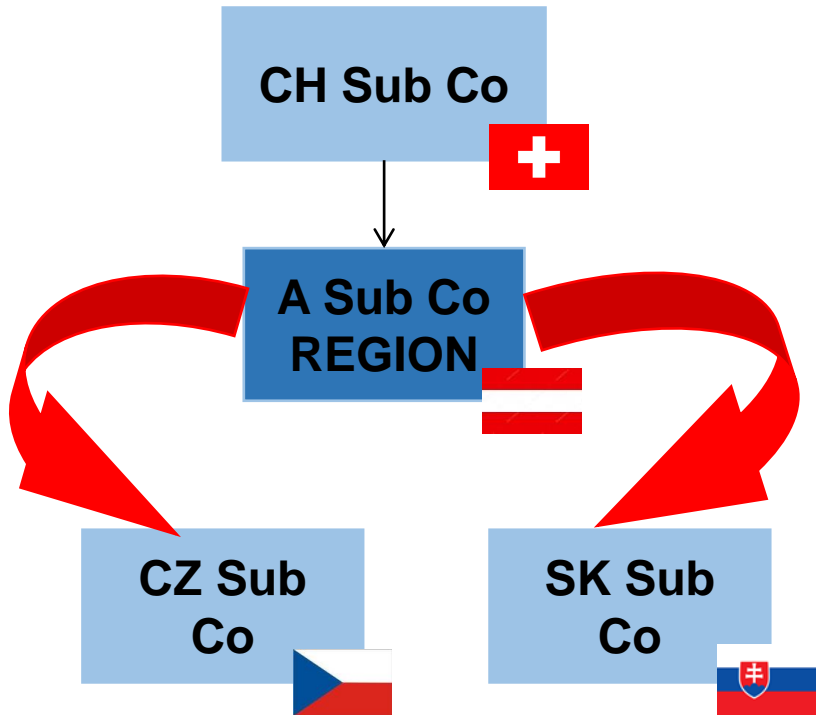
- Questions and pitfalls:
  - Duplicates?
  - Direct-charge or indirect-charge method?
  - Guarantee of quality and responsibility for service rendered?
  - No accurate price settlement in contract
  - Differences in allocation keys among service centres
  - Booking on different accounts – reporting

# Services typically available externally from independent enterprises - solution

- Parent Co elaborates a new policy, explains it and puts it into practice.



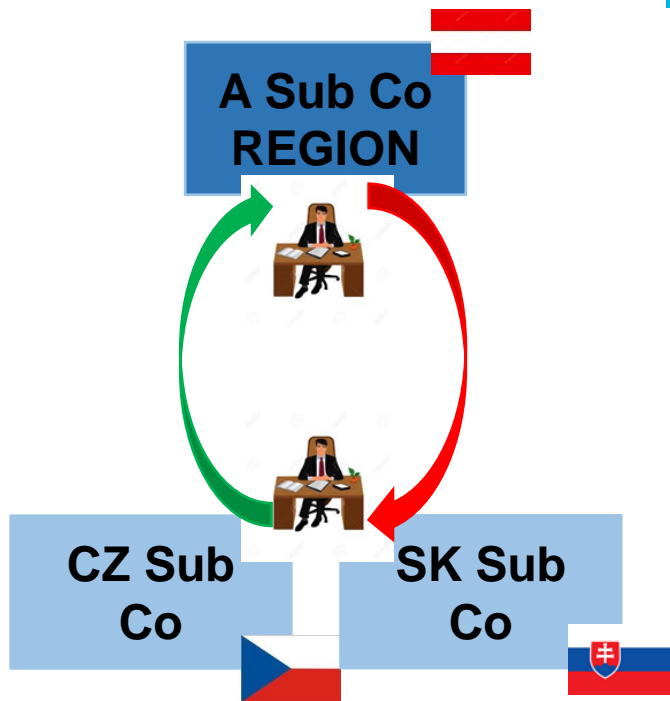
# Reinvoicing of services rendered in a MNE by an associated enterprise – case facts



- Facts:
  - CH Sub Co organises a marketing event for a whole MNE
  - CH Sub Co sends an invoice to A Sub Co Region for a whole region.
  - A Sub Co Region allocates the relevant amount to each Co in region and sends separate invoices to e.g. CZ and SK Sub Co with mark-up on the respective amount.

# Reinvoicing of services rendered in a MNE by an associated enterprise – solution

- Solution and pitfalls:



- Contract?
- Documentation?
- Mark – up ?

# Reinvoicing of services rendered in a MNE by an associated enterprise – solution

- Czech CFO's arguments are refused by his superior



# Issues often arising in intra-group services

- „no contract
- no documentation e.g. meeting notes, e-mails, memos
- no acts of acceptance of services by receiver
- no confirmation of cost and its allocation
- no uniform accounting standard for cost and allocation
- no functional analysis
- no annual true up without contractual arrangement
- no global consistency“

# Intra-group services policy and in-house TP department

- Reasons for implementing intra-group services policy:
  - consistent governance for changing, monitoring processes and standards
  - efficiency in determining treatment of costs
  - improved transparency and compliance
  - setting of :
    - terminology within a MNE
    - approaches for all billing of shared activities
    - allocation keys within a MNE
  - consistent and fiscally robust framework
  - „on call“ in – house TP professionals with a deep knowledge of business and processes within a MNE

# Changing role of CFOs

- Originally, the CFOs role entailed:
  - producing and analyzing financial statements
- CFOs in 21 must be able to „peak around corners“
- In the field of transfer pricing CFOs have to accept that the transfer pricing strategy is their task and responsibility. TP has to be discussed at C-level regularly.