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One System, Many Rules: A Critical Examination of Environmental Remedial Measures in the Czech Republic[3]

Abstract

This article critically examines the fragmented legal framework governing environmental remedial measures in the Czech Republic. It also analyses the multiple legislative acts under which such measures can be imposed, including the overarching Act on the Environment, the specific Act on the Prevention of Environmental Damage (largely unused in practice), numerous component-specific laws (e.g. water, forests, nature protection), and regulations concerning historical environmental burdens ('old ecological burdens') predating privatisation. The analysis highlights the lack of a unified definition and procedure for remedial measures, the inconsistent application of the 'polluter pays' principle, issues surrounding the transfer of liability (particularly concerning privatised property and legal succession), and the practical challenges faced by administrative authorities. Despite legal fragmentation, the administrative data suggest that the remedial measures under specific acts are frequently imposed, albeit with limited recourse to appeals or judicial review, thus raising questions about enforcement effectiveness. The article further explores the impact of court proceedings, including the rare granting of suspensive effect to administrative complaints, and the interplay between public law obligations and private law claims. Finally, it addresses the implications of this complex regulatory landscape from a real estate perspective, considering disclosure requirements, the role of public databases such as SEKM, and the impact of environmental burdens on property marketing and valuation.

Keywords: Remedial Measures, Czech Republic, Environmental Liability, Polluter Pays Principle, Environmental Damage, Old Ecological Burdens, Real Estate, Environmental Due Diligence

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1. Introduction

The effective remediation of environmental damage is a cornerstone of environmental protection. However, in the Czech Republic, the legal framework for imposing remedial measures through administrative decisions is notably fragmented, being dispersed across numerous legislative acts. This lack of unification presents significant challenges for regulators, liable parties, and the environment itself. The violations of environmental regulations should ideally trigger not only administrative or criminal sanctions but also robust remedial measures capable of restoring or mitigating the resultant harm. As such, this article offers a critical examination of the Czech legal system governing environmental remediation. Specifically, it identifies the key legislative instruments, explores the definition and purpose of remedial measures, analyses the procedures for their imposition, investigates the practical application by administrative authorities, and assesses the role of judicial review. Special attention is given to the complexities surrounding liability, particularly the transfer of obligations and the issue of 'old ecological burdens', inherited from the pre-privatisation era. Furthermore, the article considers the practical implications of this fragmented system, including its impact on real estate transactions and marketability. By highlighting inconsistencies and practical shortcomings, the analysis contributes to improving the coherence and effectiveness of environmental remediation in the Czech Republic.

2. International and EU legal frameworks

Liability for environmental damage in the Czech Republic exists within the broader framework of international and European Union law. From the international perspective, Principle 22 of the United Nations Declaration on the Human Environment (Stockholm, 1972) affirms the responsibility of states to cooperate in developing international law on liability and compensation for environmental harm. Its significance lies in shaping the international discourse rather than providing enforceable mechanisms. The 1993 Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (Lugano Convention), negotiated within the Council of Europe, never entered into force. While of historical and doctrinal interest, it has no direct role in administrative practice and its primary influence lies in inspiring the drafting of the Environmental Liability Directive (2004/35/EC, ELD).

The ELD expressly excludes the damage falling under specific international regimes. The first cluster of such treaties concerns marine pollution, including the 1969 Brussels Convention on Civil Liability for Oil Pollution Damage and its 1992 Protocol, the 1971 and 1992 London Conventions establishing the International Oil

Pollution Compensation Fund, the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage, and the 1996 Convention on Liability and Compensation for Damage in Connection with the Carriage of Noxious and Hazardous Substances by Sea. The Czech Republic is not a party to the 1992 CLC or Fund Conventions, the HNS Convention has not entered into force, and none of these regimes has a realistic connection with terrestrial or inland waterway scenarios in which Czech remedial measures are applied.

A second cluster covers nuclear liability. Here, the exclusion in the ELD is directly relevant to Czech practice. The Czech Republic is a contracting party to the 1963 Vienna Convention on Civil Liability for Nuclear Damage and the 1988 Joint Protocol on the Application of the Vienna and Paris Conventions. It has also signed but not ratified the 1997 Protocol to the Vienna Convention. Liability for nuclear damage is thus governed entirely by the nuclear liability regime, being excluded from the scope of domestic environmental remedial measures legislation, including the Act on the Prevention and Remediation of Environmental Damage.

Under EU law, the ELD remains the principal instrument, although its application in the Czech Republic is rare (see below). Consequently, the related jurisprudence of the Court of Justice of the European Union (CJEU) is of limited relevance. The Czech courts have not referred a preliminary question to the CJEU regarding the interpretation of the ELD or any other aspects of environmental liability, administrative, civil or criminal.

3. The fragmented legal landscape for environmental remediation

The Czech legal system builds on the assumption that sanctions and remedial measures can coexist but do not depend on each other, as sanctions represent the administrative authority's exercise of punitive power, whereas remedial measures reflect the need to impose restorative actions.[4] Remedial measures, irrespective of the specific legislative act under which they are imposed, are conceptually distinct from punitive sanctions. Their fundamental purpose is restorative, aiming to eliminate or mitigate environmental damage in accordance with the 'polluter pays' principle, rather than primarily serving to punish the entity responsible for the violation. This distinction has important legal consequences; that is, remedial measures can be imposed concurrently with administrative fines or even criminal penalties without violating principles against double jeopardy. Unlike administrative sanctions, remedial measures are not subject to preclusion. Moreover, unlike administrative sanctions that share a coherent framework regulation (Act

4 | See the judgements of the Supreme Administrative Court of 22 August 2018, No. 8 Ads 207/2017-58, and of 10 August 2021, No. 6 Afs 10/2020-27.

No. 250/2016 Coll., on Liability for Offences and Procedure thereon), the complex task of addressing environmental damage and mandating remedial measures is approached through several parallel, yet distinct, regulatory pathways, thus contributing significantly to the fragmented nature of the overall framework.

First, the Act on the Environment (No. 17/1992 Coll.) confers upon administrative authorities the general power to impose remedial measures and establishes a clear hierarchy for remediation methods. The primary obligation is *restitutio in integrum*, meaning restoration to the original state. Should this prove impossible or wholly impractical, alternative remedial actions must be undertaken. Only if the alternative measures are also deemed unfeasible does the option of monetary compensation arise. Crucially, due to the public-law nature of this Act, the party responsible for the damage does not possess discretion in selecting the form of the remedy; instead, the sequence is legally mandated. However, mainly due to lack of detailed provisions, the Act on the Environment is used in practice merely as an interpretative guideline in judicial decision-making. Despite the initial intentions, it has never been supplemented by the envisaged implementing regulation. Its enforcement capabilities have thus never been considerably activated.

Second, the Act on the Prevention and Remediation of Environmental Damage (No. 167/2008 Coll.) stands as a key piece of legislation, as it transposes the requirements of EU Environmental Liability Directive (2004/35/EC)[5] into national law. It has the potential to facilitate a comprehensive, cross-component approach to remediation.[6] However, in practice, its application has been notably limited, remaining largely unused by administrative authorities. Its temporal applicability is also restricted, covering only instances of damage that have occurred subsequent to its promulgation on 22 April 2008. This Act also uniquely provides the sole explicit legal definition of remedial measures found in Czech statute, characterising them as actions "aimed at restoring, rehabilitating, or replacing damaged natural resources or their impaired functions, or providing adequate compensation for these resources or their functions".[7] Other than that, the Czech legal framework lacks a unified and generally accepted definition of corrective measures.[8] According to some authors, remedial measures are a specific set of powers arising from supervisory activities when deficiencies are identified (i.e. differences between the observed and desired behaviour of the supervised person).[9] Others, however, classify remedial measures as administrative sanctions of a restorative nature, applicable in situations where an unlawful state can be effectively corrected.[10]

5 | Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage. OJ L 143, 30. 4. 2004, 56–75.
6 | See Stejskal & Vícha 2009.
7 | Act on the Prevention of Environmental Damage, Section 2(k).
8 | Mitášová 2024.
9 | Hendrych et al. 2016, 208–209.
10 | Průcha 2024, 331–332.

Third, a significant portion of remediation governance resides within numerous component-specific laws, with at least fourteen individual acts regulating remediation pertinent to specific environmental sectors. These encompass a wide range of environmental concerns, including dedicated laws for the protection of nature and landscapes, agricultural land resources, forests, water bodies, ambient air quality, waste management, chemical substances, integrated pollution prevention and control (IPPC), natural medicinal resources, genetically modified organisms (GMOs), and public health aspects. These specialised acts contain bespoke provisions for imposing remedial measures tailored to the specific environmental medium or activity they govern (see below).

Finally, a distinct regulatory regime specifically addresses the legacy of 'old ecological burdens'. This category pertains to contaminated sites where the environmental damage was caused by state-owned enterprises prior to their privatisation, typically before the pivotal year of 1989.

4. Imposition and enforcement of remedial measures

The authority vested in administrative bodies to impose remedial measures, and whether such imposition is obligatory or discretionary, exhibits considerable variation across the fragmented Czech legislative landscape. While the framework Act on the Environment appears to grant a degree of discretion to administrative authorities,[11] certain component-specific acts adopt a more stringent approach. Notably, legislation such as the Water Act (No. 254/2001 Coll.) and the Forest Act (No. 289/1995 Coll.) legally oblige the relevant administrative authority to impose remedial measures once a statutory violation has been confirmed and the party responsible for causing the environmental damage has been definitively identified. In this regard, the Supreme Administrative Court ruled that the administrative authority dealing with the unauthorised discharge of wastewater has no discretion as to whether to impose such a measure but is obliged to do so whenever an unauthorised discharge of polluted water is detected. This obligation arises from Section 27(1) of the Water Act (now Section 42, with the unchanged wording).[12] Conversely, other regulations consider the power to impose remedial measures as optional, leaving the decision contingent upon the specific assessment and judgment of the administrative authority in the given circumstances.

Procedurally, the imposition process also lacks uniformity. Explicit and detailed procedural rules governing the imposition of remedial measures are uniquely set out only within the largely unused Act on the Prevention of Environmental Damage in Section 8. For the majority of other relevant legislative instruments, including

11 | Act on the Environment, Section 27.
12 | See the judgement of the Supreme Administrative Court of 25. 11. 2003, No. 5 A 81/2001-46.

the foundational Act on the Environment and most of the component-specific laws, specific procedural provisions are absent. In such cases, the administrative authorities follow the general provisions of the Administrative Procedure Code (No. 500/2004 Coll.) subsidiarily when conducting proceedings to impose remedial measures. Typically, these proceedings are initiated as a follow-up to supervisory activities or inspections that identify environmental deficiencies. However, various provisions also allow competent authorities to take immediate action through *on-the-spot* or *on-site* proceedings in situations demanding urgent intervention (e.g. where there is an imminent danger to human life or health or a serious and immediate threat of significant property damage).[13]

The effect of lodging an appeal against an administrative decision imposing a remedial measure also varies. As a general principle, an appeal would normally have a suspensive effect, delaying the enforceability of the decision until the appeal is resolved. However, several specific environmental acts explicitly exclude this suspensive effect, ensuring that the obligation to remediate remains immediately enforceable, despite an ongoing appeal; examples include the GMO Act,[14] Air Protection Act,[15] and Chemical Substances Act.[16] The Integrated Prevention Act[17] provides the administrative authority with the discretion to exclude the suspensive effect in individual cases. Even where the suspensive effect is not automatically excluded by statute, the administrative authority retains the power to decide to exclude it, typically justifying such a decision on the grounds of an overriding public interest, which is a consideration often pertinent in environmental protection cases.

Enforcement mechanisms for ensuring compliance with imposed remedial measures are also diverse. The most common consequence of failing to implement a required remedial measure is the initiation of proceedings for an administrative offence, potentially resulting in fines. However, certain acts grant administrative authorities more potent enforcement tools. For instance, the Integrated Prevention Act, Forest Act, and Air Protection Act empower authorities to order the restriction or even complete suspension of the offending operation or activity if the mandated remedial measure is not fulfilled within the specified timeframe. This power can serve as a significant deterrent and a strong mechanism to compel compliance. Furthermore, some legislation explicitly addresses situations where the current landowner is not responsible for the contamination, thus imposing a legal obligation on such landowners to tolerate the implementation of necessary remedial measures on their property by the liable party or the authorities; examples of this can be found in the Agricultural Land Act (No. 334/1992 Coll.) and the Water Act.

13 | Jančářová 2010, 575.
14 | No. 78/2004 Coll. Section 34(4).
15 | No. 201/2012 Coll., Section 22(3).
16 | No. 350/2011 Coll., Section 22 (2).
17 | No. 76/2002 Coll., Section 19b(6).

Table 1 provides an overview of the remedial measures under the regimes of individual legal acts. In most cases, the failure to implement a remedial measure leads to administrative liability. In accordance with the *polluter pays* principle, the obligated party is typically the person liable for the defective condition.

Legislation	Section	Grounds for Imposition – Responsible Entity	Consequences of non-implementation
Act on the Environment	Art. 27	Environmental damage and causing ecological harm defined in Art. 10 – originator of the damage	Offence under Section 28(1)(b)
Act on the Prevention of Environmental Damage	Art. 7–8	Occurrence of environmental damage – operator of an activity listed (or, in some cases, not listed) in Annex 1 to the Act	Offence under Section 19(1)(c) and (d)
Agricultural Land Act	Art. 3c	Non-compliance with soil protection requirements – originator of the damage	Offence under Section 20(1)(f) or 20a(1)(f)
Nature and Landscape Act	Art. 86	Damage, destruction or unauthorised alteration of protected parts of nature – originator of the damage	Offence under Section 87(3)(e) or 88(2)(g)
Forest Act	Art. 51	Deficiencies in forest management caused by violation of regulations or measures to improve the condition of forests – forest owner	Offence under Section 54(1)(e)
Act on Waters	Art. 42	Water contamination – originator of the damage/ acquirer of privatised property/legal successor	Offence under section 123(2)(c) or 125h(2)(c)
	Art. 110 – 112	Remediation of deficiencies identified following water supervision – supervised person	Offence under section 123(1)(h) or 125a(1)(x)
Air Protection Act	Art. 22	Non-compliance with obligations related to a stationary source – operator of the stationary source	Suspension of operation pursuant to Art. 22(1)
Ozone Layer Act	Art. 14	Non-compliance with obligations laid down by this Act or EU Directives – originator of the damage	x
Waste Act	Art. 116	Non-compliance with management obligations under directly applicable EU regulations – originator of the damage	x
Chemical Substances Act	Art. 33	Non-compliance with obligations under the Act – usually a person who has placed a substance or mixture on the market	x
Integrated Prevention Act	Art. 19b	Non-compliance with obligations under the Act or an integrated permit, accidental release of pollutants from the installation – operator of the installation	Suspension of operation pursuant to Art. 19b(3); offence under Section 37(4)
Natural Medicinal Resources Act	Art. 39	Non-compliance with obligations under the Act or an integrated permit, accidental release of pollutants from the installation – operator of the installation	Offence under Section 41(1)(h) or (2)(i)
Act on GMO	Art. 34	Non-compliance with obligations under the Act, EU Directives in relation to the control of the handling or other treatment of GMOs – originator of the damage	x

Table 1: Remedial measures across individual legal acts

The overarching principle guiding liability determination is the *polluter pays* principle, meaning that the party responsible for creating the harmful condition is typically obligated to undertake and finance the remediation.[18] Nonetheless, as further explored below, the practical identification of the obligated party and the subsequent management of the liability transfer can present considerable legal and practical complexities.

5. Transfer of liability and succession

The legal regulations concerning the transfer of the obligation to implement environmental remedial measures in the Czech Republic are relatively underdeveloped and inconsistently addressed across different statutes, leading to potential legal uncertainty. Some legislative acts explicitly provide for the transfer of this public-law obligation to the legal successor of the entity originally deemed responsible for the pollution or harmful condition. This is particularly the case for the operators of stationary sources under the Air Protection Act,[19] operators of the industrial facilities under the Integrated Prevention Act,[20] and entities subject to remedial measures under the Water Act,[21] the Waste Act (No. 541/2020 Coll.),[22] and the Agricultural Land Act.[23] In these specific legislative contexts, the law expressly establishes the transfer of the public-law duty to carry out remediation to the new owner or operator, thereby ensuring a continuity of responsibility for fulfilling the imposed measure. Certain acts go further, allowing the obligation to implement a remedial measure to be imposed directly upon a legal successor who is not the originator of the contamination. This applies, for instance, to operators of stationary sources governed by the Air Protection Act or those subject to the Waste Act.[24]

The Water Act holds a specific position regarding liability transfer, especially in the context of property privatisation. First, it explicitly permits the imposition of remedial obligations on the entity that acquired the property through privatisation,[25] even if that entity did not cause the pollution, provided it can be demonstrated that the contamination or defective condition was known at the time of the property transfer. This knowledge might be evidenced by specific contractual agreements or reflected in a discounted purchase price granted due to the

18 | See Vícha 2014.
19 | Air Protection Act, Section 22(4).
20 | Integrated Prevention Act, Section 19b(7).
21 | Water Act, Section 42(3).
22 | Waste Act, Section 116(3).
23 | Agricultural Land Act, Section 3c(3).
24 | Air Protection Act, § 22(4); Waste Act, Section 116(2). See Hanák & Vodička 2024.
25 | Pursuant the Privatisation Act (No. 92/1991 Coll.).

environmental burden.[26] If such a contract is concluded, case law further clarifies[27] the obligation of the new owner takes precedence over imposing the obligation on the original polluter, even if known.

Second, the Water Act provides a further mechanism where, if neither the original polluter nor the acquirer under privatisation can be held liable, the remedial measure may potentially be imposed on a 'technically competent person' capable of carrying out the remediation.[28]

However, outside these specific provisions, particularly under acts other than the Water Act or the largely theoretical framework of the Act on the Prevention of Environmental Damage, significant legal uncertainty can arise. Specifically, questions may emerge regarding whether a new landowner automatically assumes responsibility for the environmental burdens created by a previous owner, or upon whom a remedial measure should be imposed if the original originator of the defective condition cannot be identified or no longer exists. This lack of clear regulation in many component-specific laws creates ambiguity.

Separately, there is the question of the transfer of liability – or more precisely, the transfer of the costs of remedial measures – within private law in the context of the sale or transfer of land. While parties involved in a property transaction might contractually agree on how the costs of potential remediation are to be allocated between them, such a private-law agreement cannot legally release a party from their underlying public-law obligation to remedy environmental damage if imposed by an administrative authority. The public duty remains, irrespective of private contractual attempts to shift the financial burden (see relevant case law below).

6. Addressing old ecological burdens

The remediation of contamination resulting from the activities of state-owned enterprises prior to their privatisation, commonly referred to as 'old ecological burdens', presents a unique and persistent set of challenges within the Czech environmental framework. These burdens often stem from the industrial practices and technologies that were legally permissible at the time of operation but are now recognised as environmentally harmful by contemporary standards. Identifying and managing these sites is a significant undertaking. The Czech Republic maintains a dedicated system for this purpose, known as the System for Evidence of Contaminated Sites (SEKM), established and managed by the Ministry of the Environment. This system serves as a crucial tool to register,

26 | Water Act, Section 42(1)–(3).
27 | Supreme Administrative Court, 2009, 2 As 84/2008-131.
28 | Water Act, Section 42(4).

monitor, and assess sites confirmed or suspected to be contaminated, as well as locations where the remediation of environmental damage is actively being addressed. Currently, the SEKM register documents over 10,000 such sites across the country.[29]

During the privatisation waves following 1989, the transfer of property was typically executed through contracts between the former National Property Fund of the Czech Republic and entities acquiring the privatised enterprises. Recognising the potential scale of environmental liabilities, particularly after the initial experiences revealed that remediation costs could potentially exceed asset values, provisions addressing these liabilities were incorporated into subsequent contracts. These often took the form of 'ecological contracts', under which the state, via the National Property Fund, undertook to reimburse reasonably incurred costs associated with addressing environmental liabilities that had originated prior to the privatisation date.

Unfortunately, these state guarantees frequently proved inadequate to cover the full extent of the necessary remediation expenses. A 2023 report by the Supreme Audit Office highlighted this issue, finding that state guarantees were insufficient at 16 sites. Consequently, at 15 of these locations, remediation work was either suspended, significantly limited, or failed to commence. Only in a single instance the acquirer of the privatised property opted to continue the remediation efforts entirely at their own expense.[30] The Supreme Audit Office concluded that, although the acquirer holds formal responsibility for remediation, if an ecological contract has been terminated due to insufficient state guarantees, the state currently lacks the legal means under applicable legislation to compel the acquirer to complete the necessary work.[31]

The legal framework for ordering remedial measures specifically related to old environmental burdens remains complex, with the Water Act playing a central role. As previously discussed, this Act uniquely allows the water management authority or the Czech Environmental Inspectorate to impose a remedial measure directly on the acquirer of property obtained through privatisation, even if they were not the originator, provided the defective condition is linked to the acquired property and the acquirer knew of the burden (evidenced by the agreement or purchase price discount). However, a significant limitation exists. Enforcement proceedings related to decisions issued under this specific provision concerning privatisation acquirers cannot be initiated, ordered, or executed. Despite this enforcement constraint, the underlying obligation arising from such a remedial measure, whether imposed on the originator or the acquirer, transfers to their respective legal successors.

29 | See https://www.sekm.cz/portal/
30 | Supreme Audit Office 2023.
31 | Ibid.

The pace of remediating historical burdens has thus been notoriously slow. Ministry of Finance estimates suggest that addressing old environmental burdens will likely continue until at least 2042. The protracted timeline is illustrated by examples such as the Ostramo oil lagoons, where the ecological contract was signed in 1997, sludge removal commenced in 2004 (lasting 18 years), and the subsequent remediation of contaminated soils is still only in the preparatory phase, with completion anticipated around 2032 – a full 35 years after the initial contract.[32] Similarly, the case of a landfill site in Nelahozeves, dating back to the 1970s and containing thousands of barrels of chemical waste deposited by a former state enterprise, highlights these difficulties. Partial removal efforts in 2019 led to criminal proceedings regarding improper waste disposal, leaving thousands of barrels on site, now potentially more exposed.[33] A significant recent development occurred in February 2025 when a court ruled that the Nelahozeves situation no longer qualified as an old environmental burden but constituted an ongoing emergency situation, drastically altering the legal context and resulting in an order for the immediate removal of the landfill.[34]

These cases underscore administrative complexities, including delays in tendering processes for remediation contractors and lengthy approvals for project documentation, that plague the resolution of old ecological burdens. Since 1993, the Czech Environmental Inspectorate has imposed remedial measures in connection with 249 ecological contracts (on acquirers of privatised property) and for 504 sites across the Czech Republic. There are numerous cases in which a significant time delay has occurred between the issuance of the Czech Environmental Inspectorate decision imposing remedial measures and the actual commencement of remediation work. The primary causes of these delays include the late announcement of tenders for remediation contractors by the National Property Fund and the lengthy process of approving project documentation and its subsequent amendments.[35]

7. Remedial measures in administrative practice

An examination of administrative practice reveals that, despite the acknowledged fragmentation of the legal framework, remedial measures are indeed imposed, albeit predominantly under the authority of component-specific environmental legislation rather than the overarching acts. This practical application highlights

32 | Supreme Audit Office 2024.
33 | See Vik 2025.
34 | See Hedviková 2022.
35 | Czech Environmental Inspectorate 2025.

the divergence between the theoretical availability of certain legal instruments and their actual utilisation by enforcement bodies.

The Act on the Prevention of Environmental Damage, despite its potential for addressing complex, multi-component environmental harm and providing a dedicated procedural framework, remains dormant in Czech administrative practice. Since its adoption, not a single remedial measure has been successfully imposed, a stark contrast to countries such as Hungary and Poland, which report hundreds of cases.[36]

The high-profile pollution incident on the Bečva River in 2020, which caused extensive fish die-offs, exemplifies this issue. Although the expert community widely agreed the Act was applicable, the Czech Environmental Inspectorate ultimately declined to initiate proceedings for remedial measures under it, concluding that the strict statutory elements defining 'environmental damage' under the Act had not been met.[37] The explanatory memorandum accompanying a proposed amendment to the Act acknowledges this lack of application, attributing it primarily to the unclear relationship between the Act and the various specific laws governing remedial measures. Consequently, the primary objective of the amendment is to clarify the scope of the Act, particularly by refining the definition of environmental damage, to distinguish its application more clearly from that of the sectoral laws. Current practice often initiates the Inspection under this Act upon request, only to subsequently terminate it based on the interpretation of 'environmental damage' before potentially initiating separate proceedings under the relevant specific legislation or referring the matter elsewhere. This reliance on specific acts inherently limits the ability to address environmental harm comprehensively when multiple environmental components (e.g. soil and water) are affected, as each specific act focuses only on the interests it is designed to protect.[38]

Remediation under the general 1992 Act on the Environment is also limited in practice, although not entirely excluded. As a framework instrument, it originally anticipated implementing legislation based on detailed procedural steps, but this was never adopted. While claimants argued in some cases that decisions imposing measures under this Act were null due to the missing regulations, the administrative courts hold that the absence of specific implementing rules does not preclude imposing obligations such as restoring ecosystem functions, provided the decision does not concern financial compensation.[39]

The vast majority of environmental remedial measures fall under specific component-based environmental laws. The analysis in this article reveals that the

36 | European Court of Auditors 2021.
37 | Czech Environmental Inspectorate 2023.
38 | Explanatory Memorandum to the amendment to the Act on the Prevention of Environmental damage.
39 | See the judgement of the Supreme Administrative Court of 1 June 2017, No. 1 As 48/2017-33.

primary administrative bodies imposing these measures in the first instance are the Czech Environmental Inspectorate and the numerous municipal authorities with extended powers (of which there are 205). Regional authorities also play a role, both as appellate bodies reviewing decisions from municipal authorities and occasionally as first-instance bodies. Obtaining comprehensive nationwide statistics is challenging due to the decentralised nature of municipal decision-making and the lack of centralised data reporting for decisions not appealed. However, the available data provide valuable insights, particularly regarding appeals, which are a prerequisite for subsequent judicial review.

Data from the Inspectorate for the period 2017–2019 show a consistent quantity of measures imposed: 252 in 2017, 229 in 2018, and 222 in 2019. The number of appeals against these decisions was notably low: 27 were filed in 2018 (although this figure combines appeals against measures and fines) and only 9 in 2019 (see Table 2).[40] Remedial measures were most commonly imposed for violations related to waste management, damage to forests (including failure to address bark beetle infestations), and unauthorised use of forest land.

Area	Air protection	Water protection	Waste management	Nature conservation and CITES	Forest protection	Total
2019[41]	3	60	9	29	124	222
2018[42]	2	74	10	14	126	229
2017[43]	7	44	13	49	137	252

Table 2: Number of remedial measures imposed by the Czech Environmental Inspectorate during 2017–2019

The above overview of remedial measures imposed by the Inspectorate does not provide a complete picture of the overall practice concerning the imposition of remedial measures and related appeals. As such, measures may also be imposed by municipal authorities with extended powers, while appeals against their decisions are handled by the territorially competent regional authority. In certain cases, the regional authority may also act as the first-instance body in imposing remedial measures. Between 2017 and 2019, the regional authorities imposed a total of six remedial measures, most of which were related to breaches of obligations under the Act on Forests. The highest number of remedial measures was imposed by the Vysočina Region (two) and the Moravian-Silesian Region (two).

40 | Krykorková 2021, Annex 1.
41 | Czech Environmental Inspectorate 2019.
42 | Czech Environmental Inspectorate 2018.
43 | Czech Environmental Inspectorate 2017.

Area	Air protection	Water protection	Waste management	Nature conservation and CITES	Forest protection	Total
Number of remedial measures	0	1	–[44]	2	3	6

Table 3: Number of remedial measures imposed by the regional authorities of the Czech Republic during 2017–2019

Area	Air protection	Water protection	Waste management	Nature conservation and CITES	Forest protection	Total
Number of appeals	1	22	–[45]	6	5	34

Table 4: Number of appeals against remedial measure decisions issued by municipal authorities with extended powers (2017–2019)

Between 2017 and 2019, remedial measures were imposed primarily by the Inspectorate, while regional authorities imposed such measures only to a limited extent. Appeals against remedial measures issued by both the Inspectorate and municipal authorities with extended powers were generally infrequent, suggesting that administrative decisions are, in practice, largely accepted without attempting to challenge them.

However, this overview may not fully reflect the complete picture, as the remedial measures imposed by municipal authorities that were not subject to appeal are not captured by the available data. For analysing the suspensive effect of administrative complaints, this limitation is not critical, as it is evident that administrative decisions imposing remedial measures are not systematically challenged.

By 2023, the number of measures imposed by the Inspectorate decreased to 123, potentially indicating a shift in enforcement activity towards the regional and municipal levels.[46]

Area	Air protection	Water protection	Waste management	Nature conservation and CITES	Forest protection	Total
Number of corrective actions	3	26	3	29	67	123

Table 5: Remedial measures imposed by the Czech Environmental Inspectorate in 2023 by the agenda

44 | Data not collected.
45 | Data not collected.
46 | Czech Environmental Inspectorate 2023.

Regional authorities imposed directly very few measures themselves (only six between 2017 and 2019, mostly concerning forest protection), but handled 34 appeals against decisions made by municipal authorities during the same period. The trend over these years indicates that appeals against remedial measure decisions, whether issued by the Inspectorate or municipal authorities, were generally infrequent. This suggests that the majority of administrative decisions imposing remedial measures becomes final and binding without being challenged through the appellate process. While this implies limited procedural delays at the administrative stage, it also means that the data likely underrepresent the total number of measures imposed, as the municipal decisions that were appealed are not captured. Nonetheless, for analysing the impact of judicial review, the low appeal rate is significant, indicating that only a small fraction of cases proceeds to court. The practical implication is that the system relies heavily on sectoral regulation enforced primarily by the Inspectorate and municipalities, with limited evidence of systematic challenges to these decisions.

8. The impact of judicial review

While administrative appeals against remedial measure decisions are infrequent, the possibility of subsequent judicial review by administrative courts can potentially affect the implementation of these measures. It is established case law that decisions imposing remedial measures are subject to judicial review; they cannot be classified as purely technical decisions exempt from court oversight, aligning with the principle that jurisdictional exclusions should be interpreted narrowly in favour of judicial scrutiny.[47] Therefore, parties dissatisfied with a final administrative decision (following the exhaustion of any appeal process) can file an administrative complaint with the relevant court.

In this context, a critical aspect of judicial review is the potential granting a suspensive effect to the administrative complaint. As a general rule, merely filing an administrative complaint does not automatically suspend the legal effects or enforceability of the contested administrative decision. This is particularly relevant for remedial measures, where the suspensive effect of the initial administrative appeal itself is often explicitly excluded by the specific governing statute[48] or can be excluded at the authority's discretion.[49] Suspensive effect in the judicial phase is considered an exceptional measure, intervening in the legal force of a decision presumed lawful until proven otherwise.[50]

47 | See the judgement of the Supreme Administrative Court of 15 December 2005, No. 3 As 28/2005-89.
48 | GMO Act, § 34(4); Air Protection Act, § 22(3); Chemical Substances Act, § 22(2).
49 | Integrated Prevention Act, § 19b(6).
50 | See resolution of the Supreme Administrative Court of 22 December 2003, No. 7 A 115/2002-67.

Suspensive effect may be granted either directly by law or upon the claimant's request.[51] In relation to remedial measures imposed under specific legislation, only the latter option is applicable. To succeed, the claimant bears the burden[52] of demonstrating convincingly that the immediate enforcement of the contested decision would cause them irreparable harm or other legal consequences disproportionately greater than any harm that the suspensive effect might cause to other persons or the public interest.[53] Furthermore, it must be shown that granting suspensive effect would not contravene public interest.[54] The same conditions apply for a cassation complaint.[55]

Demonstrating the imminence of irreparable harm is sufficient, as proving its certainty is not required. Conversely, the claimant needs only to assert the absence of conflict with public interest, leaving it to the defendant (the administrative authority) to challenge this assertion. The analysis of relevant case law confirms that courts grant only exceptionally suspensive effect in proceedings concerning environmental remedial measures. Requests are typically granted only when the claimant provides specific,[56] credible, and individualised[57] arguments, demonstrating a serious risk of irreparable, imminent,[58] and sufficiently probable[59] harm, thus clearly outweighing the public interest in immediate enforcement. Vague or unsubstantiated claims such as general financial hardship are consistently deemed insufficient.[60] Therefore, while theoretically possible, the mechanism of suspensive effect in administrative court proceedings does not appear to constitute a significant or systematic barrier to the timely enforcement of environmental remedial measures in practice.

Conversely, the claimant is not required to prove the absence of conflict with important public interest; it is sufficient to assert that no such conflict exists. It is then up to the defendant to challenge this assertion in their response. If the defendant does not do so, the law does not impose a duty on the court to investigate this condition ex officio.[61]

The case analysis confirms that suspensive effect in proceedings concerning remedial measures is granted only exceptionally. It is typically awarded when the

51 | Blažek et al. 2016.
52 | See the judgement of the Regional Court in Hradec Králové of 23. October 2003, No. 52 Ca 9/2003-144.
53 | See the ruling of the Constitutional Court of 22 March 2022, No. Pl. ÚS 39/18.
54 | Blažek et al. 2016.
55 | Code of Administrative Justice (No. 150/2002 Coll.), Section 107(1); see the resolution of the Supreme Administrative Court of 11 April 2023, No. 8 Azs 50/2023-34.
56 | See the resolution of the Supreme Administrative Court of 30 January 2012, No. 8 As 65/2011-74.
57 | See the resolution of the Supreme Administrative Court of 11 April 2023, No.8 Azs 50/2023-34.
58 | See the resolution of the Supreme Administrative Court of 4 October 2005, No. 8 As 26/2005-76.
59 | See the resolution of the Supreme Administrative Court of 10 October 2022, No. 2 As 225/2022-25.
60 | See the resolution of the Supreme Administrative Court of 21 May 2014, No. 6 Afs 73/2014-56.
61 | See the resolution of the Regional Court in Hradec Králové of 23 October 2003, No. 52 Ca 9/2003-144.

claimant clearly demonstrates a risk of serious and irreparable harm, supported by specific and credible arguments. Conversely, courts consistently reject requests that are vague or unsupported; general references to financial hardship, for example, are insufficient.

Case No.	Suspensive Effect before the Supreme Administrative Court	Legal basis for the imposed remedial measure	Suspensive Effect before the Regional Court
5 As 32/ 2023-44	Granted	Nature and Landscape Act, Section 86	Granted
5 As 384/ 2021-50	Granted	Nature and Landscape Act, Section 86	Granted
3 As 322/ 2017-52	Not granted	Nature and Landscape Act, Section 86	Not requested
7 As 159/ 2012-32	Not granted	Czech Environmental Inspectorate Act	Not requested
7 As 162/ 2012-38	Not granted	Czech Environmental Inspectorate Act	Not requested
6 As 64/ 2007-126	Not granted	Waste Act	Not requested

Table 6: Suspensive effect before the administrative courts

The courts emphasise that suspensive effect is an extraordinary measure, justified only when the harm to the claimant clearly outweighs the public interest in the enforcement of the decision. In several cases, the absence of a timely request at the regional level limits the possibility of relief at the cassation stage.

Overall, the suspensive effect mechanism does not pose a systematic barrier to the enforcement of environmental remedial measures. However, the analysis highlights the need for more precise argumentation from claimants and for further examination of how frequently remedial measures are actually carried out once final.

Another consideration is the interplay between public-law remedial obligations and private-law claims, such as those for civil damages. The application of public law (imposing remedial measures) and that of private law (addressing civil liability for damages) operate independently. However, this rule cannot be interpreted in that public law norms are entirely excluded from interfering with the private law domain.[62]

The imposition of a public-law duty to restore the environment or implement substitute measures does not preclude an injured party from pursuing a separate claim for damages under private law. However, in certain circumstances, the successful execution of a remedial measure might also satisfy the obligation to

62 | See the resolution of the Constitutional Court of 28 January 2014, No. II. ÚS 117/14; judgement of the Supreme Administrative Court of 28 May 2024, No. 10 As 254/2023-50.

compensate for actual material damage suffered by an injured party. The Act on the Prevention of Environmental Damage explicitly notes this possibility, stating that general private-law provisions on damages liability shall not apply if remediation under that Act also results in compensation for property damage. Nevertheless, remedial measures, focused on restoring natural resources, generally do not fully substitute for civil liability, particularly concerning claims beyond direct property damage.[63] Should a dispute arise, it falls to the civil court to determine whether and to what extent the implemented remedial measure has fulfilled any parallel obligation to provide compensation.[64] In certain situations, remedial measures may prove more effective than civil damage claims – for instance, in cases involving contaminated land, where liability for damage is subject to a two-year subjective and a three-year objective limitation period.

From the polluter's perspective, it is crucial to understand that fulfilling a public-law remediation duty does not automatically extinguish potential private-law liability; instead, they may face parallel proceedings and liabilities under both legal regimes. Notably, public-law remediation can sometimes offer a more effective route for addressing environmental harm than private claims, particularly concerning issues such as contaminated land, where civil liability might be subject to shorter limitation periods compared to the possibility of lodging a complaint with a public authority about an unlawful environmental condition, which may not be time-barred.

Finally, judicial review often involves determining the correct liable party, the "originator of the harmful condition". This is frequently contested, especially in cases involving property transfers or historical pollution, with the Water Act often being the focal point due to its relatively detailed provisions on liability transfer. Court decisions consistently emphasise the *polluter pays* principle. In property transfer cases after contamination occurred, the Supreme Administrative Court has held that the obligation remains with the party upon whom the measure was originally imposed (the originator), even if they no longer own the property.[65] The transfer of ownership does not automatically transfer the public-law remediation duty; the new owner is simply obligated under the Water Act to tolerate the implementation of the measure by the liable party. This interpretation prevents polluters from evading responsibility by simply divesting contaminated assets.

Regarding privatised property, the courts focus on identifying the entity with the 'closest connection' to the harmful condition. They hold that responsibility for environmental contamination generally lies with the current owner of the land, as that person has the closest connection to the ongoing situation on the site. An exception can apply if another entity has a more direct relationship to the harmful

63 | Jančářová 2010.
64 | Vomáčka et al. 2018, Section 86.
65 | See the judgement of the Supreme Administrative Court of 19 June 2023, No. 5 As 100/2022-45

condition, for example, if the original operator still owns or operates the landfill as a separate legal asset.[66]

While liability often follows ownership, especially if the property was acquired with the knowledge of the environmental burden, the state's role in privatisation contracts (ecological agreements) has been interpreted narrowly. Courts have determined that the state's commitment was generally limited to reimbursing costs, not assuming the liability itself. Consequently, the responsibility for remediation remained with the privatised entity and was subsequently passed to its legal successors. Crucially, courts reiterate that public-law liability cannot be contractually excluded or avoided through private agreements between parties.[67]

9. Implications from a real estate marketing perspective

The intricate legal framework governing environmental burdens and remedial measures casts a shadow over the real estate sector by influencing transactions, valuations, and development strategies. For participants in the property market, navigating these complexities requires careful consideration and diligence.

A primary concern revolves around disclosure and the necessity for thorough due diligence, particularly when dealing with commercial or industrial properties, brownfield sites, or undeveloped land intended for future development. While Czech law incorporates broad EU sustainability reporting requirements which affect larger companies, specific regulations mandating explicit disclosure of all potential environmental burdens in standard residential or smaller commercial property transactions are less defined than the general need for comprehensive due diligence.

Accessing reliable information about potential environmental burdens is key for prospective buyers and investors. The SEKM database, administered by the Ministry of the Environment, serves as the official register for contaminated sites and old ecological burdens in the Czech Republic. This database is explicitly recognised as a data source for spatial analytical documents prepared under the Building Act (Act No. 283/2021 Coll.), contributing to the identification of old burdens and contaminated areas. While the SEKM system is a vital resource for authorities and spatial planning, its direct accessibility and user-friendliness for individual buyers conducting preliminary checks is limited compared to those of instantly accessible public databases such as the Cadastre of Real Estate (Land Registry), which provides ownership details, property boundaries, and registered

66 | See the judgement of the Supreme Administrative Court of 30 November 2005, No. 2 As 38/2005-132.

67 | See the judgement of the Municipal Court in Prague of 11 December 2022, No. 3 A 195/2016-72; judgements of the Supreme Administrative Court of 7 December 2021, No. 7 As 393/2020-41, of 23 July 2009, No. 2 As 84/2008-131.

encumbrances, and is often searchable online for free. Buyers might indirectly encounter SEKM data through information contained within official spatial plans or via professional Environmental Due Diligence (EDD) reports commissioned as part of the transaction process, rather than through direct public querying of the SEKM portal. However, ensuring that buyers are aware of and can interpret the information derived from SEKM and integrated into planning documents is essential.

In practice, the EDD becomes a critical risk management tool. Phase I EDD typically involves evaluating the site's history, reviewing records and maps, conducting site visits to assess current activities (e.g. waste handling or chemical storage), and identifying potential or existing contamination liabilities to ensure compliance with environmental laws. This process aims to uncover risks, including old ecological burdens, and may also involve assessing waste generation, wastewater handling, hazardous substance management, and air emissions. If potential issues are identified, Phase II EDD might involve intrusive investigations, such as sampling soil, groundwater, or building materials (e.g. for asbestos, petroleum hydrocarbons, PCBs) to quantify contamination levels. Standard property due diligence should also encompass title examination, reviewing physical surveys, checking access rights, confirming utility connections, analysing zoning regulations and planning permissions, and assessing potential hazards such as flooding or historical contamination. Performing robust EDD is crucial, as it informs decision-making and can significantly mitigate the financial risks associated with future remedial costs.

The presence of environmental burdens undeniably affects property value and marketability. Neglected brownfields, which are often visually blighted and sometimes associated with social issues, tend to exert a negative externality, depressing the value of neighbouring residential properties. The extent of this impact can vary depending on factors such as the distance from the contaminated site and the perceived severity of the problem, including associated anti-social behaviours. The mere existence of contamination necessitates potentially substantial remediation costs, which directly diminish the land's development potential and attractiveness to investors, thus affecting its marketability. While successful remediation and the regeneration of brownfield sites are encouraged by spatial planning policies aiming for efficient land use and revitalisation, the initial presence of the burden and the uncertainty surrounding remediation costs and timelines represent significant market barriers.

Environmental considerations are increasingly integrated, albeit sometimes unsystematically, into spatial planning processes. Strategic documents such as Prague's Metropolitan Plan aim to manage development sustainably, concentrating investment in transformational areas such as brownfields and promoting resilience and climate adaptation. National policies also advocate for the efficient use of built-up areas and the revitalisation of abandoned sites, partly to reduce pressure

on agricultural land. Recent reforms to the public construction law emphasise tools such as economic instruments to incentivise development on brownfields over greenfield sites and advocate for planning competencies to reside at the appropriate governmental level, also encouraging inter-municipal cooperation where necessary. However, the effective integration of concepts such as ecosystem services directly into planning documents remains a challenge. Spatial planning coordinates land use, infrastructure development, and environmental protection, thereby shaping how and where real estate development occurs and influencing the market by designating areas for specific use while considering environmental constraints. The interplay between remediation policies, spatial planning goals, and real estate market dynamics is complex, requiring careful navigation by developers, investors, and policymakers.

10. Conclusions: persistent challenges and pathways forward

The Czech Republic's regulatory framework for addressing environmental remedial measures is undeniably characterised by significant legal fragmentation. While the 'polluter pays' principle serves as the ostensible foundation, its consistent and predictable application is considerably complicated by the existence of a multitude of specific sectoral laws operating in parallel, the striking practical non-utilisation of the potentially unifying Act on the Prevention of Environmental Damage, and the often ambiguous and inconsistently applied rules governing the transfer of liability, an issue particularly pronounced in the context of historical environmental burdens and of assets transferred during privatisation.

Administrative practice demonstrates heavy reliance on component-specific legislation, primarily enforced by the Czech Environmental Inspectorate and municipal authorities.[68] Although remedial measures are demonstrably imposed under these specific acts, the notably low frequency of appeals against such decisions raises pertinent questions regarding the uniformity of enforcement across jurisdictions and the actual pace and effectiveness of on-site remediation activities.

Consequently, judicial review plays a relatively limited role in shaping the application of remedial measures, largely due to the infrequency of challenges reaching the courts. Furthermore, the exceptional nature of granting suspensive effect to administrative complaints means this procedural mechanism does not present a systematic obstacle to enforcement.

For stakeholders within the real estate sector, this complex and fragmented system underscores the paramount importance of conducting thorough and specialised environmental due diligence prior to any transaction involving potentially

68 | On administrative measures in the context of the circular economy, see Vodička 2024.

affected properties. The potential presence of contamination and the associated remediation liabilities can significantly affect property valuation, marketability, and future development prospects. While public databases such as the SEKM exist to identify the known burdens, ensuring that potential buyers and investors can readily access, understand, and correctly interpret relevant environmental risk information remains a critical challenge. Moving towards a more coherent, transparent, and ultimately effective system for environmental remediation in the Czech Republic necessitates confronting this legislative fragmentation, potentially by clarifying the scope and enhancing the practical applicability of the Act on the Prevention of Environmental Damage.[69] Furthermore, achieving greater clarity and consistency in liability rules, particularly concerning succession and historical burdens, and improving the accessibility and integration of environmental risk data within both the property market and spatial planning frameworks are essential steps for progress.

69 | See Radvan 2022.

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