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The Legal Framework for Administrative Offences: Defining Responsibilities, Compliance and Sanctions in Slovakia[1]

Abstract

This article examines the Slovak legal framework governing administrative offences, with a particular emphasis on environmental protection as one of the most dynamically developing areas of public law. It outlines the conceptual distinction between substantive and procedural administrative law, analyses the hierarchy of legal sources and explains the principles guiding the distribution of powers among central, regional and local authorities. The paper highlights the fragmented and dispersed regulation of administrative liability and sanctions, drawing attention to the competences of ministries, inspection bodies, municipalities and public guards, and the resulting lack of clarity in their responsibilities. It further explores the classification of administrative offences, including misdemeanours, strict liability offences and hybrid offences, while assessing their specific relationship to criminal liability and the principle of subsidiarity of criminal repression. Particular attention is devoted to the system of sanctions, their proportionality, preventive function and the need to balance deterrence with fairness. The article argues that despite the generally sufficient legislative framework, procedural shortcomings and overlaps between administrative and criminal enforcement reduce legal certainty and effectiveness. In conclusion, the authors call for clearer distribution of competences, greater procedural consistency and possible codification of administrative liability as key steps for strengthening enforcement and enhancing the credibility of environmental protection in Slovakia.

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1. Introduction

1.1. Define substantive administrative law and its general role in governance

Substantive administrative law is a part of administrative law and regulates social relations in the field of public administration.[2] In administrative law relations, a public administration body always acts in a position of power, i.e. as an administering entity. Natural persons and legal entities, as administered subjects, are obliged to submit to unilateral authoritative intervention in their rights or obligations.

Administrative law regulates a wide range of relations in the public administration sphere. It responds to the changing tasks of public administration and the development of society.[3] The set of administrative law norms is increasingly differentiated internally in connection with this development. Based on similar features and systemic connections, it is divided into sections or subsystems. For example, the environmental care section consists of administrative law norms regulating the activities of public administration bodies in protecting and creating the environment and administrative law instruments focused on creating compliance between human activities and the environment.[4] New legal branches,[5] such as environmental law, are also emerging with higher frequency and greater social importance.

1.2. Explain the distinction between substantive and procedural administrative law

Substantive administrative law and procedural administrative law are interconnected. In simple terms, this is a relationship between the objective and the means. Substantive law is a regulator of a person's status and a meritorious regulation of rights and obligations. However, their application would be problematic if there were no possibility of enforcing them through procedural rules.[6]

We find common links within the subsystems of administrative law, such as administrative criminal law. The reason for perceiving administrative criminal law as a subsystem is the fact that it also has special features of a repressive nature

2 | Vrabko et al. 2018, 56.
3 | Seman, Jakab & Tekeli 2020, 11.
4 | Vrabko et al. 2017, 331.
5 | Seman, Jakab & Tekeli 2020, 10.
6 | Fábry, Kasinec & Turčan 2017, 90.

typical of its social function. This function is not typical for public administration and is used in imposing tortious liability. Public administration should resort to repressive means only if social relations cannot be protected in any other way. The objective of public administration in this area is the prevention and protection of society from illegal activity, fair sanctioning, gentle elimination of the consequences of illegal activity and discouraging potential delinquents from committing administrative offences.[7]

1.3. Provide an overview of the legal sources of administrative law (constitutional principles, statutory laws, regulatory decrees)

Generally binding legal regulations are Constitutional Act No. 460/1992 Coll. Constitution of the Slovak Republic, as amended (hereinafter referred to as the 'Constitution'), laws, government regulations, decrees and measures of ministries, decrees of local state administration bodies and generally binding regulations of self-governing units.

The Constitution is the national source of law of highest legal force.[8] The basis for environmental protection is Art. 44 in conjunction with Art. 51, paragraph 1 of the Constitution, which state that the right to environmental protection may be claimed only within the limits of the laws that implement the Constitution. According to the Constitution, everyone has the right to a favourable environment, which is explicitly mentioned only in Act No. 17/1992 Coll. on the Environment[9] (hereinafter referred to as the 'Environmental Act'). According to the Constitution, everyone is obliged to protect and improve the environment, and no one may endanger or damage it beyond the limits set by law. The Constitution also expresses the principle of state responsibility, and the state may implement tasks related to its fulfilment directly by state authorities or transfer them to local self-governing authorities or other entities.[10] The framework thus created expresses the principle of shared responsibility from a legislative viewpoint in the form of:

1. the obligation to protect and improve the environment,
2. the prohibition to endanger and damage the environment beyond the limits established by law, which is the basis for the legal regulation of liability for administrative offences).[11]

Legal regulation is contained in general and component legal regulation. *Lex generalis* is the law on the environment. It defines the basic concepts, principles of

7 | Hamuľáková & Horvat 2019, 14–15.
8 | The right to environmental protection is enshrined among the fundamental rights and freedoms. See Section Six of Chapter Two of the Constitution.
9 | Košičiarová 2022, 105.
10 | Drgonec 2007, 437.
11 | Košičiarová 2022, 106.

environmental protection, obligations of legal entities and natural persons,[12] basic provisions on liability for a breach of obligations, regulation of sanctions and other measures for environmental damage.[13]

Component laws, i.e. *lex specialis*, are linked to components of the environment and are thus focused on:

- water protection (Act No. 364/2004 Coll. on Water),
- air protection and Earth's ozone layer protection (Act No. 146/2023 Coll. on Air Protection),
- waste management (Act No. 79/2015 Coll. on Waste),
- environmental impact assessment (Act No. 24/2006 Coll. on Environmental Impact Assessment),
- geological research and exploration (Act No. 569/2007 Coll. on Geological Works),
- nature and landscape protection (Act No. 543/2002 Coll. on Nature and Landscape Protection)

and they also regulate the specific facts of an administrative delict.

2. Legal framework governing administrative competences

2.1. How do central, regional and local authorities share administrative powers within the scope of environmental protection?

Public administration is organised into various organisational units and consists of state administration bodies, local self-governance bodies and public guards. The tasks of state administration in the field of environmental protection are thus significantly fragmented.

A fundamental role in the field of environmental protection is played by state administration bodies with competence over the entire territory of the state (ministries and state administration bodies with nationwide competence) and for a part of this territory (local state administration bodies):[14]

1. Ministry of the Environment of the Slovak Republic (hereinafter referred to as the 'Ministry'),
2. district offices in the seat of the region,

12 | Vrabko et al. 2025, 49.

13 | Provisions of Sections 28–30 of the Environmental Act.

14 | The foundations of the system of state administration in the field of environmental protection are laid down in Section 1(1) of Act No. 525/2003 Coll. on State Administration in Environmental Protection (hereinafter referred to as the 'Act on State Administration in Environmental Protection'). Ministries are established by Act No. 575/2001 Coll. on the Organisation and Activities of the Government and the Organisation of Central State Administration. Several tasks are also carried out by the Ministry of Agriculture and Rural Development of the Slovak Republic (hereinafter referred to as the 'Ministry of Agriculture'), for example in the areas of water management, veterinary care, fisheries and hunting.

3. district offices,
4. Slovak Environmental Inspection (hereinafter referred to as the 'Inspection').

The Ministry is obliged to exercise its legal capacity, for example, in the areas of nature and landscape protection, water management, air protection, waste management, protection and regulation of trade in endangered species of wild animals and wild plants. The Ministry manages and controls the performance of state administration by local state administration bodies and the Environmental Inspection. It also coordinates the cooperation of other state administration bodies at the national level. In addition to tasks, it develops environmental conceptual materials.

Inspection and supervisory bodies of state administration with nationwide legal competence are specialised in administrative supervision, control and inspection. The Inspection is an inspection body and is subordinate to the Ministry. It is managed and responsible for its activities by the Director General. It is divided into the Inspection Headquarters and the Environmental Inspectorates subordinate to it. It carries out its activities in accordance with special laws and imposes liability for administrative offences. The Slovak Forestry and Timber Inspection[15] is an inspection body that is subordinate to the Ministry of Agriculture. It imposes measures and liability for administrative offences on economic entities. The State Veterinary and Food Administration of the Slovak Republic[16] is a supervisory body. At the local level, regional veterinary and food administrations are subordinate to it. It is not directly subordinate to any of the central state administration bodies. It carries out control and supervision, for example, over the health and protection of animals.

Local state administration bodies are district offices and district offices in the regional seat.[17] The current model of the local state administration bodies system consists of bodies with general competence and bodies with specialised competence. District offices are bodies with general competence; therefore, they carry out state administration in several of its sections. Bodies with specialised competence[18] have been established for several other sections of state administration. One of the several organisational units of the district office, which is the

15 | Act No. 113/2018 Coll. on the Placing of Timber and Timber Products on the Internal Market and on Amendments to Certain Acts.
16 | Provision of Section 4 of Act No. 39/2007 Coll. on Veterinary Care.
17 | According to Act No. 221/1996 Coll. on the Territorial and Administrative Organisation of the Slovak Republic, regions and districts are administrative units established for the exercise of state authority.
18 | Since 1990, as a result of public administration reforms, various models of local state administration have alternated: the so-called integrated system based on the existence of authorities with general competence, and the so-called deconcentrated system based on sectoral management of authorities with special competence. The current model, in force since 2013, may be characterised as a mixed one with strengthened horizontal concentration.

environmental care department, has competence in matters of environmental care. District offices in the first instance carry out their state activities on the basis of component laws, for example, in waste management, water care and nature and landscape protection. Their legal capacity includes issuing permits, monitoring the fulfilment of obligations and imposing liability for administrative offences. They are a second-instance body in matters in which the municipality decides in the first instance, including when sanctioning environmental administrative offences. District offices in the regional seat carry out state administration in the second instance in matters in which the district office decides in administrative procedure.[19]

2.1.1. Local self-governance

Municipalities, as the basis of local self-governance, ensure a number of tasks in their territory. Environmental care is included among the basic tasks and activities of self-governance.[20] The scope of self-governing tasks is regulated by the Act on Municipal Authority by demonstrative calculation. It also includes the environmental section of administration, which is expressed extremely broadly and abstractly.[21] The scope of tasks in matters of delegated state administration is defined exclusively by component laws, such as Act No. 364/2004 Coll. on Water, Act No. 146/2023 Coll. on Air Protection, Act No. 79/2015 Coll. on Waste, Act No. 543/2022 Coll. on Nature and Landscape Protection and many other laws.[22]

To determine whether a municipality exercises self-governance or state administration, the law regulates not only the task but also the area to which it belongs.[23] However, if the law does not state such a regulation or fails to state it, the rule that it is the exercise of the municipality's self-governing powers applies. The lack of transparency in such a system is caused by an exception resulting from Case law,[24] according to which, when a municipality decides on administrative

19 | Pursuant to Section 4(2)(b) of the Act on Local State Administration.
20 | Tekeli, Hoffmann & Tomaš 2021, 172.
21 | Provision of Section 4(3)(g) and (h) of the Act on Municipal Establishment:
"In the exercise of self-government, a municipality shall in particular:
(g) provide public utility services, in particular the management of municipal waste and small construction waste, the maintenance of cleanliness in the municipality, the administration and upkeep of public greenery and public lighting, water supply, wastewater disposal, the management of wastewater from cesspools and local public transport,
(h) create and protect healthy conditions and a healthy way of life and work for the inhabitants of the municipality, protect the environment, … ."
22 | See the illustrative list in Section 1(2) of the Act on State Administration in Environmental Protection.
23 | In the performance of self-government tasks, competences are exercised in the municipality's own name, at its own responsibility and expense. In the exercise of delegated state administration, competences are exercised in the name of the State, at its responsibility and expense.
24 | Resolutions of the Supreme Court of the Slovak Republic: 6Rks/1/2011, R 87/2012, R 88/2012.

offences, it always acts within the framework of delegated state administration.[25] Moreover, in environmental protection, the municipality's self-governing competence and the delegated exercise of state administration meet, since their tasks are determined by the same component regulations. It is clear from application practice that municipalities are often unaware of this overlap in regulating individual components of the environment. This leads to the illegality of activities and legal acts.[26]

The range of tasks of higher territorial units is regulated in a similar way as in the case of municipalities.

2.1.2. Public wardens

Members of public wardens are natural persons with the status of public officials.[27] According to special laws, they protect the individual components of the environment in the public interest. Public wardens are Nature Wardens, Water Wardens, Field Wardens, Forest Wardens, Hunting Wardens and Fishing Wardens. Their activities focus on protecting the exercise of law or property, detecting illegal actions and imposing liability for administrative offences at the place of their commission. They monitor compliance with the laws and other generally binding regulations and decisions issued on their basis.[28] The regulation of wardens is inconsistent. Component laws regulate in various ways the conditions of membership, the rights of members and the relations of superiority and subordination, for example, Nature Wardens are subordinate to the Ministry and Field Wardens to the Ministry of Agriculture of the Slovak Republic. Their unsystematic and insufficiently regulated rights and their use are perceived negatively.[29]

2.2. What legal principles determine delegation of powers and regulatory authority?

The most important rule for the organisation and activity of public administration is the principle of legality. It expresses the strict binding of public administration bodies by legal regulations. For administered entities, this is particularly important when issuing decisions that affect their obligations.

The territorial principle expresses the territorially limited competence of public administration bodies, since all of them have their competence defined for a certain territory, state, administrative units or self-governing territorial units.

25 | Potasch 2013, 202–203.
26 | Tekeli, Hoffmann & Tomaš 2021, 173.
27 | Vrabko et al. 2025, 14.
28 | Košičiarová 2022, 150–151.
29 | Mráz & Novotná 2022, 71–72.

The sectoral principle entrusts a public administration body with a set of competences with a material connection, as in the case with environmental protection. In contrast, the functional principle expresses the entrustment of competences for ensuring specific tasks carried out in several sectors of public administration.[30] It can be applied to activities in the exercise of supervision and the imposing of liability for administrative offences.

Subordination is a rule based on relations of superiority and subordination. Its manifestation is management and control always emanating from a hierarchically higher entity. It is applied in the vertical line of the state administration structure, for example, the line of the Ministry, the district office in the regional seat and the district office.

Inspection and supervisory bodies of state administration with nationwide legal competence are a manifestation of the principle of de-centralisation, i.e. the transfer of tasks from central state administration to lower-ranking bodies.

The principle of delegation is a manifestation of the entrusting of state administration performance to entities other than state administration bodies. The performance of state administration is usually delegated to municipalities, higher territorial units or natural persons, for example, members of public wardens are natural persons with delegated legal capacities.

The principle of decentralisation expresses the entrusting of some competencies to local self-governance, thereby increasing the legal competence and responsibility of other public entities at the expense of the state.[31] Municipalities and higher territorial units represent two levels of local self-governance without relations of superiority and subordination.

Coordination and cooperation are typical for state administration bodies at the same level. An example is the relationship between the Ministry and the Ministry of Agriculture or several district offices. Also, relations among all components of public administration, regardless of which part they are classified into, are relations of cooperation and synergy in the field of environmental protection.

2.3. How does administrative law balance government intervention and individual rights?

Public administration is strictly governed by the principle of legality from both an organisational and functional viewpoint. However, its performance is a set of demanding activities, and the opinions of recipients on their implementation result from their subjective attitudes and expectations. In this regard, the question arises as to what extent public administration bodies should implement their activities in relation to individual subjects. In the field of administrative law, the principle

30 | Vrabko et al. 2025, 21.
31 | Tekeli, Hoffmann & Tomaš 2021, 151.

of maintaining the public interest is particularly important in this regard and should be present in every activity of public administration. Public administration officials should therefore carry out their activities in such a way that everyone, or at least the majority, benefits from them. At the same time, it is also necessary to interpret this principle in accordance with the basic principles on which the state is built, as a certain association of its inhabitants.

Two concepts which provide a framework consisting of principles and guidelines for the proper and fair performance of public administration are also important for balancing the interference of public administration with the rights of individuals and legal entities. These are the right to good administration and the right to a fair process. The concept of the right to good administration contains basic requirements for the quality of the activities of administrative entities towards the addressees of their activities. The principles and guidelines that form it are aimed at:

- protection of the individuals rights in relation to the activities of public administration, especially when issuing administrative acts,
- the position and activities of public administration executives,
- ensuring equal access to services provided by public administration.[32]

The concept of the right to a fair process[33] contains basic requirements for the quality of proceedings before any public authority. Its impact is particularly significant in administrative proceedings, in which liability for administrative offences is imposed. On this basis, everyone has the right to have their case discussed fairly, publicly and within a reasonable time.[34]

3. Regulatory powers of administrative authorities

3.1. What types of administrative acts (e.g. regulations, directives, decisions) define obligations?

Every activity of public administration is externally manifested in a concrete final form of activity. Administrative legal acts are among those that can regulate and impose new obligations.

Normative administrative acts regulate the rights and obligations of administered entities within the scope of legal regulations of higher legal force. They include government regulations, decrees and measures of ministries and other central state administration bodies, decrees of local state administration bodies

32 | Vrabko et al. 2025, 30.
33 | Art. 6(1) of the European Convention on Human Rights and Fundamental Freedoms.
34 | Vrabko et al. 2019, 8.

and generally binding regulations of local self-governance. Individual administrative acts apply the legal norms contained in normative legal acts to specific cases. They do not have a law-making character, but as a rule they establish or declare concrete rights and obligations of natural persons and legal entities. Typical individual administrative acts are decisions. A special type of decisions imposing obligations are writ proceedings and penalty blocks, which are issued in simplified administrative proceedings on administrative offences. Decisions that grant their addressees new rights and impose new obligations are called constitutive decisions.[35]

Inspection result protocols are the result of inspection and supervision procedures if non-compliance of the inspected state with the requirements specified in legal regulations or decisions is detected.[36] Within the protocol, the administrative supervision authority has the legal capacity to impose obligations on the inspected person. It imposes these obligations mainly through corrective and sanctions means, depending on the circumstances.[37]

3.2. How do administrative bodies enforce compliance through monitoring, inspections and compliance orders?

Public administration bodies are obliged to ensure the fulfilment of obligations by the entities they administer. To achieve this objective, they need to obtain information about relevant facts. Therefore, they carry out administrative supervision and environmental monitoring.

Administrative supervision is a specific type of control activity that is carried out by public administration bodies towards administered entities. It is a procedure by which they detect the actual state and subsequently compare it with the state required by legal regulations or obligations imposed by decisions. The exercise of administrative supervision affects the rights of the controlled natural persons and legal entities. Therefore, the rights and obligations and the progress of all interested entities are regulated by law. If deficiencies are found during administrative supervision, all findings on breaches of legal regulations are listed in the protocol on the results of the inspection. Even though administrative supervision is regulated in terms of substance by specific regulations, it is generally true that corrective measures or sanctions can be imposed when deficiencies are found. Corrective measures have the objective to protect the environment, and therefore a general corrective mean is the legal capacity of the supervisory body to require the elimination of the identified deficiencies, for example, by imposing an obligation to refrain from certain actions, ordering the closure or suspension of operations

35 | Vrabko et al. 2025, 145.
36 | Vrabko et al. 2025, 202.
37 | Košičiarová 2022, 149.

or revoking authorisation.[38] Sanctions are intended to punish the detected illegal behaviour. They are penalties for a breach of substantive obligations arising from legal regulations or decisions. The findings obtained during the inspection also serve as a basis for subsequent imposition of liability for administrative offences.

Public administration bodies carry out administrative supervision to a varying extent. They have an important place in the activities of the Ministry and inspection[39] and other specialised inspection and supervision bodies. The Ministry's activities are focused on lawmaking in terms of emphasis. In contrast, issuing decisions takes a back seat and is the main activity of local state administration bodies.[40] Inspection and supervision bodies carry out administrative supervision, as their focused activity and their follow-up decision-making activity in imposing responsibility is also important for detecting administrative offences. The district office in the regional seat, district offices and municipalities, when devolved to perform state administration according to special regulations, also carry out state supervision tasks. Their activity in issuing decisions that punish administrative offences is important.

3.3. What preventive measures can authorities impose to avoid environmental harm?

Preventive measures can be adopted by public administration bodies on the basis of several component laws. The opposite approach to environmental protection is represented by integrated prevention and control of environmental contamination.[41] According to the Integrated Prevention Act, this is a set of measures focused on:

- prevention of environmental contamination,
- reduction of emissions into air, water and soil, and
- limitation of waste generation and its treatment and removal.

Their objective is to achieve a high level of environmental protection through preventive action, namely by limiting the negative impact of significant industrial activities. Integrated contamination prevention and control measures include:

- issuing integrated permits,
- reviewing and updating the conditions of issued integrated permits, and
- performing environmental controls.[42]

38 | Košičiarová 2022, 148.
39 | The Ministry and the Inspectorate exercise state supervision pursuant to Section 2(1)(e) and Section 9 of the Act on State Administration in Environmental Protection.
40 | Seman, Jakab & Tekeli 2020, 73.
41 | Pursuant to Act No. 39/2013 Coll. on Integrated Prevention and Control of Environmental Pollution (hereinafter referred to as the 'Act on Integrated Prevention').
42 | Vrabko et al. 2025, 201.

In the field of integrated prevention and control of environmental contamination, state administration is carried out by the Ministry and the Inspection. In relation to the addressees of preventive measures, the Inspection has a central position, issuing integrated permits. These are decisions that determine the binding conditions for the performance of industrial operations activities. An integrated permit authorises the operator[43] to perform activities in the operation and determines the binding conditions for the performance of this activity. An integrated permit must also be issued for each significant change in the operation's activities.[44]

The operator is obliged, for example:

- to perform the activity in operation in accordance with the issued integrated permit,
- to maintain the operation in line with the conditions specified in the permit, and
- to fulfil corrective measures.

If a breach of the conditions in the permit threatens serious harm to human health or the environment or the occurrence of significant damage, the operator is obliged to stop the activity.

The Inspection is also a state supervisory authority in this area of state administration; it imposes corrective measures and, if an administrative offence is committed in this area, it imposes administrative legal liability.

4. Types of administrative offences

4.1. General administrative offences – breaches of general administrative duties (e.g. failure to obtain necessary permits, non-compliance with reporting obligations)

An administrative offence is understood as a less serious unlawful action for which sanctions may be imposed that affect the sphere of the delinquent to a lesser extent.[45] Slovak legal regulation on administrative offences is contained in several legal regulations with legal force. Currently, there is no single legal regulation of a code nature that would systematically regulate all administrative offences that Slovak legislation recognises. Equally, the typology of administrative offences is currently not unequivocal and generally accepted.

43 | According to Section 2(g) of the Act on Integrated Prevention, an operator is a natural person – entrepreneur or a legal entity who wholly or partly operates or manages an installation, a combustion plant, a waste incineration plant or a waste co-incineration plant.
44 | Košičiarová 2022, 271.
45 | Horvat et al. 2018, 118.

Legal theory most often distinguishes the following types of administrative offences: misdemeanours, administrative offences of legal entities and natural persons engaged in business, as well as natural persons performing qualified activities, other administrative offences of natural persons, administrative disciplinary offences and administrative order offences.[46]

The only legal division of administrative offences is the division into misdemeanours and other administrative offences. This division also results from many laws that focus on various sections of public administration in terms of content. It is typical for them that in the part regulating administrative legal liability they refer first to misdemeanours and consequently to other administrative offences. From this we can deduce that the basic type of administrative offences in Slovakia is misdemeanours. They also have their own direct definition, namely in Act No. 372/1990 Coll. on Misdemeanours, as amended (hereinafter referred to as the 'Misdemeanour Act'), according to which an action due to a misdemeanour is one that breaches or threatens the interests of society and is explicitly designated as a misdemeanour in this or another law, unless it is another administrative offence covered by special legal regulations or is a criminal act.[47] A misdemeanour must therefore simultaneously meet several characteristics: it must be fault-based conduct (and since culpability is possible only for natural persons, we can deduce from this that a delinquent liable for a misdemeanour can only be a natural person); the proceedings must fulfil the material characteristic (breach or threaten the interest of society); the misdemeanour must be expressly designated in accordance with the law (this can also be in legal regulations other than in the Misdemeanour Act), and at the same time, the rule of subsidiarity applies; i.e. it is a misdemeanour only when the action does not constitute the facts of the case fulfilment in another type of administrative offence or criminal act.

In the legal regulation of misdemeanours, the rule applies that the individual facts of a case are either regulated in a special part of the Misdemeanour Act or in special regulations. The Misdemeanour Act regulates only one type of misdemeanour in the field of environmental protection, namely according to the provisions of Section 45, which is generally formulated in the sense that this misdemeanour is committed by a person who, by breaching generally binding legal regulations on environmental protection in a manner other than as follows from the provisions of Sections 21 to 44 of the Misdemeanour Act, deteriorates the environment.

Other administrative offences that are not misdemeanours represent administrative sanctions for various situations. Their legal regulation, compared to misdemeanours, is present in several legal regulations and is very brief. Since administrative offences of natural persons sanctioned based on fault, administrative disciplinary offences and administrative order offences represent a relatively

46 | Vrabko et al. 2025, 212.
47 | Section 2(1) of the Act on Misdemeanours.

specific way of imposing administrative liability, we will focus further on administrative offences of legal entities and natural persons engaged in business, as well as natural persons performing qualified activities, which the theory also calls 'hybrid administrative offences'. This is because the subject of this type of offence can be a legal entity (without the need for further specification) or a natural person (as an entrepreneur or performing a certain type of qualified activity).

4.2. Strict liability administrative offences – offences where intent is not required (e.g. exceeding emission limits, unauthorised land use)

Currently, hybrid administrative offences are of the greatest importance in terms of imposing liability for a breach of obligations in the field of environmental protection. Their legal regulation is present in several legal regulations. As stated by Beleš and Havelková, "administrative offences of legal entities are contained in many special regulations, which usually regulate only the facts of the case in concrete specific administrative offences, sanctions, determination of the authority that decides on them and deadlines for imposing them."[48]

However, the essential difference between them is the fact that the mentioned hybrid administrative offences are punished regardless of fault, in other words, on the basis of objective liability. As stated by Čerkala and Vajliková, "we distinguish between subjective and objective legal liability. Subjective legal liability involves culpable unlawful proceedings, intentional or careless. It is characteristic of objective liability that it always involves a result, or rather an unlawful state, the prerequisite for which is not subjective fault."[49] Thus, in the case of objective liability, we only determine whether a certain unlawful proceeding is objectively attributable to a certain subject, without further examining the subject's relationship to the proceedings.

This model of objective liability is not merely a theoretical construct; it is applied consistently in sector-specific areas of environmental regulation. In Slovak water law, administrative offences are sanctioned regardless of fault, primarily in response to breaches of prohibitive regulatory regimes, such as unauthorised water use or cross-border water transport, reflecting a strong preventive and protective rationale.[50] In contrast, waste management regulation relies on administrative penalties mainly to enforce ongoing compliance with statutory obligations related to waste handling and management, thereby emphasising regulatory discipline rather than mere prohibition.[51]

This is partly for the formal reason that in legal entities, as in legal constructs, fault as an internal psychological relationship of the delinquent to the unlawful

48 | Havelková & Beleš 2016, 3.
49 | Čerkala & Vajlíková 2007, 33.
50 | Jakab 2023, 49–50.
51 | Maslen 2023, 73–75.

proceedings cannot even exist. An equally important reason, however, is the fact that in this case the unlawful act, as such, and the consequences of these proceedings are penalised, not other circumstances that may have preceded it, including the will or knowledge of the delinquent about the unlawfulness of the proceedings. This fact is also of great importance because in many areas of public administration, including climate and environmental protection, subjective liability would be very difficult to prove. Of course, even if this case concerns objective liability, from which in principle one cannot be freed by a lack of will or knowledge (as is the case, for example, in the case of those misdemeanours that require fault), it is not absolute liability. This means that if a certain proceeding is not attributable to a certain delinquent, he cannot be sanctioned for it, even in the case of an event that was beyond his ability to influence (force majeure). The concept of objective liability is thus based on the correct punishment of all hybrid administrative offences in Slovakia, which otherwise could not be sufficiently effective.

4.3. Hybrid offences – cases where administrative liability overlaps with potential criminal liability (e.g. illegal waste disposal leading to criminal prosecution)

In the case of certain proceedings that generally meet the characteristics of administrative offences, we can in some cases also speak of criminal liability. A criminal act is an unlawful act whose characteristics are listed in the Penal Code, unless that law provides otherwise.[52] In other words, if a certain proceeding meets the characteristics of both a criminal act and an administrative offence, it will be punished as a criminal act.

Administrative offences in the field of environmental protection are regulated in a special part of the Penal Code, namely in its sixth chapter, together with generally dangerous criminal acts. Concretely, these are the following criminal acts: Endangerment and damage to the environment, Unauthorised waste management, Unauthorised discharge of harmful substances, Breaching of water and air protection, Unauthorised handling of substances damaging the ozone layer, Breaching of plant and animal protection, Tyranny to animals, Killing of companion animals without adequate reason, Neglect of animal care, Organising animal fights, Breaching the protection of trees and shrubs, Spreading a contagious animal and plant disease, Escape of organisms, and Poaching.[53] In most of these proceedings, it is true that criminal development is still based on certain criteria such as it is, for example, damage. In the case of this type of criminal acts, this is defined differently than in general. "As stated by the legislator, in environmental criminal acts, damage is understood as the sum of ecological damage and property

52 | Section 8 of the Criminal Code.
53 | Sections 300–310 of the Criminal Code.

disadvantage, with property disadvantage also including the costs of restoring the environment to its previous state."[54] As stated by Burda, "property disadvantage to the environment is therefore determined according to the usual criteria for determining disadvantage and must always include the costs of restoring the environment to its previous state, i.e. as if the environmental damage had not occurred before the act."[55] It continues: "Ecological damage must be assessed as complex environmental damage, even if it concerns only one, or possibly even an isolated component (e.g. one tree), but it is all the greater, i.e. the more ecological links are disrupted between the individual disrupted components."[56]

Another distinctiveness of environmental criminal acts is that, apart from exceptions, all provisions have a blanket character and therefore refer to other generally binding legal regulations. In their essence, they refer to the provisions of individual sectoral legal regulations in the field of environmental protection, which we refer to in the article above. As Záhora states, this 'fragmentation' of the legal regulation and the quantity of blanket legal norms make it difficult to detect and investigate these criminal acts.[57]

4.4. How are the boundaries between administrative offences and criminal offences set?

The differences between administrative legal and criminal liability in the field of environmental protection arise from one of the basic principles of substantive criminal material law, namely the subsidiarity of criminal repression (*ultima ratio*). As Mihálik states, "it is necessary to find a fine balance between what needs to be protected through criminal law and what is sufficient for protection through other legal branches (primarily we mean private law protection through tools of civil law and public law protection through tools of administrative law)".[58] Therefore, even in the case of environmental protection, it is necessary to first impose liability through administrative law tools and only consequently proceed to criminal sanctions.

One of the important means of state coercion is administrative punishment, i.e. imposing sanctions on natural persons and legal entities in cases where the seriousness of the unlawful proceedings does not justify criminal liability.[59] The distinguishing criteria for whether administrative or criminal liability will be imposed in a given case therefore include the degree of seriousness of a certain offence.

However, there are, of course, more of these differences. It may also be the nature of the sanction. Equally, as we stated when differentiating between

54 | Section 124(3) of the Criminal Code.
55 | Burda 2010, 124.
56 | Ibid.
57 | Záhora 2011, 300–310.
58 | Mihálik 2021, 85.
59 | Havelková 2020, 119.

misdemeanours and other administrative offences that a higher penalty is generally applied in the case of other administrative offences, there is also a difference in sanction between administrative offences in general and criminal acts. Criminal liability is imposed for more serious acts that require stricter sanctions, such as imprisonment, to discourage the delinquent and provide satisfaction to the public. On the contrary, administrative sanctions are of a milder nature, serving more as an emphasis on the obligation to respect the law. The most common administrative sanction is a financial penalty.[60]

Among other differences between administrative offences and judicial offences (criminal acts) we can include, for example, the object of the offence (in the case of administrative offences, it is primarily the proper functioning of public administration and only consequently other objects) and the social and ethical condemnation of the offence (such condemnation occurs primarily in criminal acts). There are also differences in who is the authority competent to hear the unlawful proceedings (in the case of administrative offences, these are public administration bodies, while in the case of criminal acts, these are authorities acting in criminal proceedings and courts) and in the legal regulation. While the legal regulation of administrative offences is present in dozens of legal regulations for individual sections of public administration without a unified code, the codification of substantive criminal law is in the Penal Code, and the codification of criminal procedural law is in the Criminal Procedure Code. In addition, certain specific features of punishment of legal entities are regulated by Act No. 91/2016 Coll. on the Criminal Liability of Legal Entities, as amended.

5. Administrative sanctions and penalties

5.1. What are the types of penalties for administrative offences? (e.g. warnings, fines, licence revocation, business restrictions)

The legally foreseen consequence of breaching a norm of administrative law is a sanction. Although the science of administrative law currently refers to the process of imposing liability for committing an administrative offence as administrative punishment, the term 'punishment' is still not an accepted term for a sanction in the field of public administration. A sanction is a consequence of a misdemeanour that is intended to deter the delinquent from further illegal behaviour. It is a means of state coercion imposed by an administrative authority in accordance with the law. However, the imposition of a sanction is not mandatory; the administrative authority may also refrain from it.[61]

60 | Vrabko et al. 2025, 205.
61 | Srebalová et al. 2020, 55.

The consequence of committing an administrative offence may be one of the sanctions which are assumed by legal regulations. In the case of misdemeanours, we distinguish the following types of possible sanctions: reprimand, penalty, prohibition of activity and confiscation of property. The Act on Misdemeanours even considers the fact that a decision on a misdemeanour may refrain from the imposition of a sanction, if the mere hearing of the delinquent is sufficient to correct the misdemeanour.[62] The general nature of the provisions of the Act on Misdemeanour implies that unless a special act provides otherwise, an administrative authority may impose an admonition or penalty for each misdemeanour. An administrative authority may impose a prohibition of activity and confiscation of property only if the conditions for their imposition are met.[63] However, we must also point out that if a special act regulates, in addition to the facts of the case, elements of a certain proceeding as a misdemeanour, the competent administrative authority is obliged to adhere to these provisions when imposing sanctions in such a case.

Unlike misdemeanours, there is no unifying code for other administrative offences that would regulate individual types of sanctions. Therefore, the type and amount of the sanction in all cases depends on what the provision of the specific law regulates. In the case of hybrid administrative offences, the most common type of sanction is also a penalty. In less frequent cases, individual laws also assume a prohibition of an activity, confiscation of an object (the objective is to prevent the object from being used again to commit an administrative offence, and at the same time to make it more difficult for the delinquent to commit such an proceedings again), a reprimand or warning for a breaching of the law, or publication of a decision on an administrative offence.[64]

5.2. How are penalties proportionate to the offence (e.g. small infractions vs. serious regulatory breaches)

When assessing the adequacy of sanctions for individual administrative offences in the field of environmental protection, we proceed from the fact that the most common type of sanction is a penalty. We can therefore assess the adequacy of the sanction depending on the amount of the penalty.

In the case of the above-mentioned misdemeanour under Section 45 of the Act on Misdemeanours, the upper limit of the penalty is 99 EUR, which is a very low amount compared to the upper limits of penalties that can be imposed for committing any of the other misdemeanours under this Act. However, this low amount is also due to the subsidiarity of this provision and the fact that more serious offences are regulated under other regulations. In the case of special regulations,

62 | Section 11(1) and (3) of the Act on Misdemeanours.
63 | Srebalová et al. 2020, 56.
64 | Vrabko et al. 2025, 246.

the differences between misdemeanours and other (hybrid) administrative offences are clearly distinguishable. For example, in the case of Act No. 543/2002 Coll. on Nature and Landscape Protection, as amended, we can thus compare two administrative offences – a misdemeanour and a hybrid administrative offence, the objective aspect of which lies in the failure to notify about the felling of a tree. If it is a hybrid administrative offence, where the responsible entity is a natural person–entrepreneur or a legal entity, the upper limit of the possible penalty is 9,958.17 EUR.[65] In contrast, where in the case of a misdemeanour with the same objective aspect of the facts of the case the responsible entity is a natural person, the upper limit of the possible penalty is 3,319.39 EUR, and the law at the same time provides for the possibility of imposing a sanction of confiscation of property.[66] We could find a very high number of such examples, in various regulations in individual sections of environmental protection, as well as in the entire public administration.

We can therefore deduce that, in general, a distinction is made between whether the delinquent is a (private) natural person – i.e. a misdemeanour is committed – or an entrepreneur or legal entity (a hybrid administrative offence).

5.3. What role do compliance incentives play in administrative enforcement (e.g. reduced penalties for voluntary corrective actions)?

In any case, all laws regulate only basic frameworks, i.e. most often the upper (and sometimes also the lower) limit of the penalty that can be imposed in a certain case. To determine the concrete limit, it is necessary to apply discretionary powers, as the administrative authority can, within the limits of the law, take the decision it acknowledges most appropriate, taking into account the specific circumstances of the case.[67] However, this consideration is based on certain criteria, which in the case of a misdemeanour are, for example, the manner in which the misdemeanour was committed and its consequences, the circumstances under which it was committed, the degree of culpability, the motives and the persons of those delinquent, as well as whether and in what way the delinquent was punished for the same act in punishment or disciplinary proceedings.[68] However, these criteria for applying discretionary powers within a certain financial framework for determining the amount of the penalty do not represent a kind of legal list of aggravating or extenuating circumstances, as we know from criminal law.

In the case of hybrid offences, these criteria for the application of discretionary powers may be present in a special law. Here we would like to point out the possibility of reducing the imposed sanction for an administrative offence. This is

65 | Section 90(1)(f) of Act No. 543/2002 Coll.
66 | Section 92(1)(h) in conjunction with Section 92(2)(b) of Act No. 543/2002 Coll.
67 | Judgment of the Supreme Court, Case No. 9Sžsk/50/2017 of 28 March 2018.
68 | Section 12(1) of the Act on Misdemeanours.

provided for by some legal regulations; in the field of environmental protection this is the new Act No. 146/2023 Coll. on Air, as amended. This act allows the hearing of some hybrid administrative offences in writ proceedings, i.e. without regular administrative proceedings and further evidence. It applies that the penalty is considered paid if, within 15 days of the date of the writ proceedings delivery, at least two-thirds of the imposed penalty amount are credited to the bank account specified in the writ proceedings (i.e. the participant in the proceedings will not defend themselves in the form of an objection), or in the case of a regular decision in administrative proceedings, if, within 15 days of the delivery date of such a decision, at least four-fifths of the imposed penalty are credited to the bank account specified in the decision.[69] As Michalovič and Jenčo report, a total of 39 writs proceedings were issued in Slovakia in the first half of 2024 alone, none of which were contested. These figures point to the efficiency of the payment writ proceedings and suggest that sanctioning non-compliance has improved thanks to the fast and simple enforcement mechanism introduced by the new Air Protection Act.[70]

6. Challenges in administrative governance

6.1. How should public administration be restructured to improve the effectiveness of administrative enforcement?

If we were to propose certain changes in the organisation or functions of public administration in the area of imposing liability of administered entities, we proceed from the above-mentioned premise that in the area of environmental protection, fragmentation of its tasks can be observed.

As part of the public administration reform of 2013, the tasks of several offices (district office branches, land offices, forest offices, cadastral administrations and others) were unified under the competence of district offices. This expanded the principle of horizontal concentration of local state administration. The objective of the changes was to improve the transparency of finances, control costs, limit the constant expansion of workplaces and streamline management, education, personnel policy, wages and introduce IT and databases. However, for the same reasons, state administration was decentralised more than a decade before this reform.[71]

We believe that the tasks of public administration in the area of imposing liability for environmental protection offences could also be expanded in the future. We can identify two main directions: strengthening the tasks of local

69 | Section 55(17) of Act No. 146/2023 Coll.
70 | Michalovič & Jenčo 2024, 37.
71 | Knežová & Vernarský 2014, 771.

state administration bodies with general substantive competence, as currently stabilised elements of administration, and expanding the supervisory tasks of inspection.

6.2. Are administrative penalties effective in ensuring compliance?

In the case of administrative offences in the field of environmental protection in general and hybrid offences in particular, it is valid, that the basic objective is to impose liability for the given act. Although administrative criminal law performs several functions, including protective, regulatory, preventive and repressive,[72] we can state that, especially in this field, the most important task is to protect the interests of society and the environment. It is necessary primarily to prevent the possible repetition of the proceeding and the causing of ecological damage and harm according to special regulations.

Administrative sanctions, in terms of legal regulation and the upper limit of penalties, are in most cases sufficient to ensure compliance with legal regulations. A certain exception is penalties in case of misdemeanours, for which the amount is not always set at a level that could effectively deter the commission of a particular misdemeanour.[73] However, in the case of hybrid administrative offences, the amount of the penalty sometimes exceeds 100,000 EUR.[74] Their effectiveness, however, is significantly limited by the practice of detecting unlawful proceedings, the process of providing evidence and the actual imposition of liability. The key factor for effectiveness remains the consistent and systematic application of legal instruments by the relevant administrative authorities.

6.3. Are penalties appropriately aligned with criminal sanctions for similar violations?

Comparing sanctions imposed in administrative and criminal proceedings necessarily requires a view that goes beyond the scope of the amount and type of sanction alone. It is essential to distinguish which unlawful proceedings are subject to administrative law instruments and which fall under criminal liability. This interface is defined in the legal order of the Slovak Republic mainly according to the amount of damage caused and the seriousness of the proceedings, although the amounts of individual types of damage have recently increased after the adoption of Act No. 40/2024 Coll., which amended the Penal Code.

While the basic type of sanction for administrative offences is a penalty, in criminal law it is primarily imprisonment, with a financial penalty serving rather

72 | Vrabko et al. 2025, 200–201.
73 | For example, the provision of Section 45 of the Act on Misdemeanours.
74 | Section 75(9) and (10) of Act No. 365/2004 Coll. on Waters.

as an alternative sanction. For this reason, it is not possible to mechanically compare these sanction regimes. In application practice, however, a penalty as a sanction for an administrative offence proves to be equally effective, especially given the fact that the delinquents of these offences are largely entrepreneurs and legal entities, for whom a financial penalty represents a sufficiently deterrent mechanism.

From a systemic perspective, it is therefore desirable that less serious unlawful proceedings be dealt with as a matter of priority within the framework of administrative punishment, while criminal liability should only be applied only as a subsidiary measure, in cases of particularly serious proceedings.

7. Future perspectives and conclusions

7.1. What adjustments in administrative sanctioning could ensure a balance between deterrence and fairness?

The current legislative setting of administrative liability in the field of environmental protection is generally sufficient in terms of balancing the preventive function and justice. The amount of sanctions, especially for hybrid administrative offences, is set relatively high, in some cases in the hundreds of thousands of euros, which ensures the necessary deterrent effect. At the same time, the administrative authority has the opportunity to apply discretionary power and determine the amount of the penalty in accordance with the specific circumstances of the case, which allows for the individualisation of the sanction to be taken into account.

Administrative punishment in this area appears to be the most appropriate method of sanctioning, as the delinquents are usually legal entities, against whom financial sanctions are more effective than other forms of sanctions. Therefore, we do not consider the adjustment of the sanction limits or types of sanctions to be crucial, but rather the consistent elimination of procedural shortcomings in the proceedings, which lead to the imposition of liability. Any changes should focus primarily on strengthening procedural guarantees and ensuring consistent and lawful procedures by administrative authorities in applying sanctions.

7.2. How can administrative penalties be standardised and better integrated into the broader enforcement system?

The legal system of the Slovak Republic clearly distinguishes between the punishment of administrative offences and criminal acts. As mentioned above, in some cases administrative and criminal liability for similar proceedings overlap, with the decisive criterion for their distinction being primarily the objective aspect

of the offence: in particular the amount of damage caused, which in the environmental field also includes environmental damage.

We see room for standardisation of administrative sanctions mainly in the need for systematisation and unification of the legal regulation of various categories of administrative offences. The Czech model may be inspiring in this regard, where general provisions on administrative legal liability are concentrated in one regulation, while the factual basis of the offences remains dispersed in special legal norms. Such an approach would contribute to greater legal certainty, clarity and more effective enforcement of liability, while it would not be necessary to interfere with the regulation of disciplinary or order offences.

An important step towards integrating the administrative sanction system into the broader law enforcement framework would also be to unify the competencies of public administration bodies operating in this area. Simplifying the organisational structure and clearly defining the scope of competence would strengthen the consistency of decision-making practice and increase the effectiveness of the entire administrative punishment system.

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