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Legal Framework for Administrative Offences in Environmental Protection Matters: Defining Responsibilities, Compliance and Sanctions in Poland[1]

Abstract

The subject of this study is to present the procedural aspects of administrative offences[2] in environmental protection matters in Poland, which are classified in our country in two ways: 1) offences penalised by criminal law provisions and subject to the Misdemeanour Law and dealt with in misdemeanour proceedings, subject to the jurisdiction of common courts, and 2) administrative offences, defined as violations of administrative law orders and prohibitions, which are dealt with by public administration bodies applying the law in administrative proceedings specified in the Code of Administrative Procedure and specific statutes. The study aims to assess the Polish model of applying the law in the area of adjudicating administrative offences following administrative proceedings, particularly with regard to the issuance of administrative decisions imposing administrative fines, guidelines for the imposition of penalties, procedural guarantees for parties in proceedings for the imposition of administrative sanctions, their review by higher authorities, and the procedure for enforcing obligations and sanctions.

Keywords: Administrative offence, administrative fines, administrative liability, administrative sanction, procedural guarantees

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1 | The research and preparation of this study was supported by the Central European Academy.

2 | Term 'offenses' or 'offences' in British English, refers to: violations of the law or unlawful acts, act of wrongdoing. Longman Dictionary of Contemporary English 1987, 717.

Monika A. KRÓL: Legal Framework for Administrative Offences in Environmental Protection Matters: Defining Responsibilities, Compliance and Sanctions in Poland. *Journal of Agricultural and Environmental Law* ISSN 1788-6171, 2026 Vol. XXI No. 40 pp. 315–342

https://doi.org/10.21029/JAEL.2026.40.315

1. Introduction

1.1. The evolution of Polish legal regulations on administrative proceedings and proceedings in misdemeanour cases

At the beginning of the 20th century, Poland regained its sovereignty, but inherited different legal systems from the partitioning powers. Right from the first years after regaining independence, steps were taken towards the unification of three completely different legal systems, primarily concerning administrative procedure regulations.[3] In the landmark year of 1928, following the example of Austrian regulations,[4] fundamental legal regulations were adopted. On 23 March 1928, the Polish legislature introduced three legal regulations with the force of law into the legal system:[5]

1. Regulation of the President of the Republic of Poland on administrative proceedings,[6]
2. Regulation of the President of the Republic of Poland on coercive proceedings in administration,[7]
3. Regulation of the President of the Republic of Poland on criminal and administrative proceedings.[8]

The regulation at the beginning of the aforementioned acts was the first Polish codification of administrative proceedings,[9] and at the same time one of the first in the world to introduce the rights of parties in explanatory proceedings, the institution of excluding an official from participation in proceedings, appeals against decisions, the resumption of proceedings, and the institution of the invalidity of decisions.[10] This act remained in force throughout the interwar period and after the end of World War II, until the end of 1960, when the current Act of 14 June 1960, the Code of Administrative Procedure (hereinafter: Kpa), came into force.[11]

3 | Act of 1 August 1923 on legal remedies against decisions of administrative authorities, J.L. No. 91, 712, and Act of 31 July, 1924 on legal remedies against decisions and orders of state school authorities, J.L. No. 76, 748.
4 | Kmiecik 2019, 26.
5 | In the Second Polish Republic, a regulation of the President of RP was a normative act issued by the head of state and countersigned by the Prime Minister and relevant ministers, having the force of law pursuant to art. 5 Act of 2 August, 1926 am. and supplementing the Constitution of RP of 17 March, 1921 (J.L. of 1926, No. 78, 442).
6 | J.L. No. 36, 341, as am.
7 | J.L. No. 36, 342, as am.
8 | J.L. No. 38, 356, as am.
9 | J. Borkowski pointed to the 1928 regulation as the second codification, deeming the 1919 provisional act to be the first one; Borkowski 2021, 83–85.
10 | Janowicz 1987, 35.
11 | J.L. 2024, 572.

The second of the aforementioned acts on coercive proceedings regulated the issue of the enforcement of monetary payments. The current legal regulation in this area is the Act of 1966 on Enforcement Proceedings in Administration.[12]

The third of the above-mentioned regulations, the Regulation on Criminal-Administrative Proceedings, was the first Polish regulation to introduce criminal sanctions linked to administrative norms. This regulation remained in force until 31 March 1952, i.e. until the entry into force of the Act of 15 December 1951 on criminal-administrative jurisdiction,[13] replaced by the Act of 20 May 1971 on the Code of Procedure in Misdemeanour Cases.[14] This Act was the direct predecessor of the currently applicable Act of 2001, the Code of Procedure in Misdemeanour Cases.[15]

1.2. Definition of procedural administrative law, its sources and role in environmental management

Administrative proceedings are a series of procedural steps taken by the authority conducting the proceedings and managing the participants in the proceedings in order to examine an administrative case and resolve it by means of an administrative decision, as well as a series of procedural steps taken by these entities to verify an administrative decision.[16] The purpose of these proceedings is to determine, in a specific case, on the basis of substantive administrative law, the legal situation, i.e. the rights or obligations, of a specifically named addressee. This objective is achieved by issuing an administrative decision, which is the final result of the process of applying substantive administrative law.[17]

In Poland, there are two types of administrative proceedings: general proceedings and special proceedings. General proceedings, based on Kpa (Code of Administrative Procedure 1960), serve to resolve all individual cases falling within the competence of public administration bodies. According to this procedure, or with minor deviations, the vast majority of cases decided by administrative decision are dealt with, including cases relating to environmental protection, agricultural and forest land protection, and water issues.

However, the Polish Kpa is subsidiary in nature. A specific provision of substantive administrative law may exclude a given case from this procedure. This means that specific provisions stipulate that certain proceedings are not conducted on the basis of Kpa, but on the basis of other, separate administrative procedures. For example, proceedings concerning environmental impact assessments under the Act of 3 October, 2008 on access to information on the environment and its

12 | J.L. 2025, 132.
13 | J.L. No. 39, 233, as am.
14 | J.L. No. 12, 116, as am.
15 | J.L. 2025, 132.
16 | Chróścielewski & Tarno 2021, 30.
17 | Kmiecik 2019, 38.

protection, public participation in environmental protection and environmental impact assessments[18] apply Kpa regarding several aspects, but with significant additions and modifications, e.g. in the area of public participation, parties to the proceedings (e.g. environmental organisations), the mode of delivery (announcements, publication in the Public Information Bulletin instead of traditional delivery of a letter or electronic delivery), as well as specific deadlines and forms of decisions.

Administrative enforcement of administrative acts and obligations arising from the law continues to be carried out on the basis of the 1966 Act on Enforcement Proceedings in Administration, while the Code of Procedure in Misdemeanour Cases (2001) sets out the rules for conducting proceedings in cases of misdemeanours from the moment they are disclosed to the enforcement of penalties or measures.

1.3. The role of procedural administrative law in environmental management

The role of procedural administrative law in environmental management is crucial, as administrative procedures are those that determine how and on what terms the objectives of substantive environmental law are implemented. Procedural law is therefore a tool or instrument by which substantive law norms are implemented. Procedural law is thus closely dependent on substantive law.[19] Polish legal doctrine has even pointed out that procedural law norms serve substantive administrative law norms.[20]

In the literature dealing with the subject, B. Adamiak[21] attributes several functions to procedural administrative law. In terms of socially desirable effects, these functions can be reduced to three basic ones: 1) an ordering function, hinges on the fact that procedural rules, by determining the order and regulating the sequence of procedural actions, organise the activities of all parties to the proceedings; 2) an instrumental function, expressed in the optimisation of the path leading to the achievement of the objective of the process; 3) a protective function guaranteed to the parties to the proceedings, manifested in the protection of individual and social interests.[22]

Administrative procedural law also plays an important role in the application of environmental law by public administration bodies:

1. ensuring the legality of administrative actions, which, pursuant to Arts. 6 and 7 of Kpa, are carried out on the basis of and within the limits of the law;

18 | J.L. 2024, 1112, as am., hereinafter: 'u.u.i.ś.'.
19 | Adamiak 2021, 27.
20 | Dawidowicz 1983, 31; Janowicz 1982, 13; Filipek 1971, 206; Chróścielewski & Tarno 2021, 26.
21 | Adamiak 2021, 24–25.
22 | Ibid., 29; Chróścielewski & Tarno 2021, 29.

2. Kpa determines the manner of initiating proceedings and issuing decisions in environmental protection matters, including environmental decisions;
3. the provisions of Kpa enable the participation and procedural guarantees of the party/parties to the proceedings. The procedures determine who is a party, guarantee the right to active participation in the proceedings, access to the case files, and the right to lodge legal remedies (complaints, appeals);
4. the provisions of Kpa define the participation of social organisations as participants with the rights of a party, and the procedure specified in the Act on Environmental Protection and Environmental Management ensures that the public is properly informed and that environmental organisations have special rights. These provisions give the right to submit comments and objections;
5. the provisions of Kpa introduce deadlines for the settlement of cases, the forms in which administrative decisions are taken, the need to justify them and the procedural transparency of the activities of administrative bodies;
6. The provisions of Kpa ensure control over the activities of the administration.

The administrative procedure prevents discretionary administrative power, arbitrariness, excessive intervention and abuse of the law, and is also an instrument for implementing ratified international agreements and the principles proclaimed therein. Administrative procedures frequently incorporate various aspects of environmental management. Although a general principle of uniformity in administrative jurisprudence does not exist, these procedure establish a consistent approach to environmental decisions that serve the public interest.

2. Administrative offences proceedings

2.1. The concepts of 'administrative offence' and 'misdemeanour'

Violation of the orders and prohibitions specified in environmental protection regulations result in legal consequences in terms of legal liability.[23] This liability is understood as a consequence of violating the law, whereby the entity involved faces negative consequences as stipulated by law for certain events or situations. These consequences are legally assigned to that entity within a specific legal framework. Given the nature of legal norms, this liability can be divided into administrative, criminal and civil liability. It is up to the legislator, guided by a specific socio-economic objective, to select the appropriate legal instruments.

In environmental protection, norms classified as administrative law play a special role, as they are the most effective in enabling the state apparatus to

23 | Lang 1968, 11.

carry out its tasks in this area.[24] However, as pointed out by M. Górski,[25] several years of enforcement of regulations imposing environmental obligations on entities required to comply with them have revealed a lack of effectiveness in their enforcement, which has even prompted a response from European Union authorities. Hence, the doctrine[26] has come to believe that among the instruments of legal liability in environmental protection in Poland, administrative liability plays by far the most important role, in its criminal version, i.e. liability for administrative offences and misdemeanours.

Therefore, violations of the orders and prohibitions specified in the substantive provisions of environmental law can be divided into two groups:

– the first category covers offences, i.e. acts prohibited under penalty as specified in the Code of Procedure in Offence Cases,[27] where the proceedings are of a criminal nature, although they concern acts of lesser social damage than crimes, which are punishable acts of lesser severity (e.g. littering in forests, soil pollution, improper waste management or destruction of plants), which may result in a fine, but imposed under criminal law, issued in proceedings in misdemeanour cases.

– the second group consists of administrative offences.[28] In Polish legal literature,[29] an 'administrative offence' is defined as an act by an entity that violates applicable law (breach of duty or exceeding the limits of the exercise of authority) in the field of administrative law, punishable by administrative sanctions. It is therefore a negatively qualified act (action or omission) resulting in a state of administrative lawlessness. Administrative offences related to the violation of substantive environmental regulations, for which the legislator has set a sanction in the form of an administrative fine or other sanction after conducting proceedings provided for in Kpa.[30]

As J. Wegner points out,[31] an administrative offence seems to fall outside the subjective or objective criteria of the definition of prohibited acts, as it may concern both the behaviour of human beings and other entities. Furthermore, it is debatable whether the prerequisite for attributing an offence to the perpetrator is considered as a culpable action or an omission based on guilt. M. Górski emphasises[32] that in a broad sense, administrative penalties can be viewed as a form of criminal liability, yet they are imposed by public administration bodies without requiring proof of guilt and can be directed not only at natural persons.

24 | Górski 1992, 46,
25 | Ibid. 2008, 9.
26 | Radecki 2020, 257.
27 | J.L. 2025, 860, as am.
28 | Wincenciak 2008, 93.
29 | Ibid.; Kruk 2013, 122 et seq.; Bogusz 2021, 20.
30 | J.L. 2024, 572, as am.
31 | Wegner 2023, 992.
32 | Górski 2008, 12.

As indicated by the Constitutional Tribunal,[33] the boundary between an administrative offence and a criminal offence is fluid and depends on the free decision of the legislator (within constitutional limits) and the conviction as to which norm will better fulfil the objectives set by the legislator. Determining whether we are dealing with an administrative offence or a misdemeanour or criminal offence can, in principle, only be assessed from the point of view of the characteristics of the sanctioning norm and the formula for applying the law adopted by the legislator. An administrative offence should be treated as an act or omission of an individual, which the law links to the obligation to bear the penalty determined by a public administration body by way of a decision. It is the nature of the sanctioning norm that determines the type of norm sanctioned as an offence, and not the other way around. The manner in which the penalty is determined by the legislator and the manner in which it is imposed are of fundamental importance.[34] Furthermore, it can be pointed out that among administrative offences, a distinction can be made between those involving a breach of statutory obligations (established by law itself) and those involving a breach of obligations specified in administrative acts.[35]

Over the years, environmental regulations have been developed, introducing many legal instruments to enforce liability for violations, among which the main role has been given to administrative and legal instruments, and their enforcement has been entrusted to public administration bodies. A view was even held that administrative law was supplanting criminal law, especially with regard to environmental protection regulations, particularly those concerning waste.[36]

2.2. Administrative financial penalties (fines)

2.2.1. Theoretical basis for administrative fines

Administrative financial penalties are directly related to the term 'administrative sanction', which is defined in a number of ways by numerous representatives of administrative law doctrine.[37] As pointed out by J. Filipek,[38] a sanction is a negative consequence of a financial or personal nature provided for in a specific legal norm and threatening anyone who fails to fulfil the obligation established by the norm, i.e. a certain hardship, loss of rights, invalidity of actions or other adverse effects affecting in some way the property or person of a specific entity. In administrative law theory, it has been pointed out that each branch of law should have legal

33 | Constitutional Tribunal judgement of 15 January 2007, P 19/06, OTK-A 2007, No. 1, 2.
34 | Błachnio-Parzych 2011, 657.
35 | Kruk 2023, 125 and the literature cited therein.
36 | Ruczkowski 2019, 98 and 110.
37 | Zimmermann 1964, 9; Kruk 2013, 164 et seq.
38 | Filipek 1963, 873–877.

instruments to punish legal entities for violating the obligations, orders and prohibitions resulting from the legal norms belonging to that branch.[39]

As L. Staniszewska points out,[40] administrative sanctions are neither a new institution nor one that is unique to the Polish legal system. Their origins can be traced back to the period of absolutism, they are known to other legal systems, such as the Austrian one, and they can also be found in the legal system of the European Union. In this model, administrative offences are treated as administrative measures, and their imposition falls within the competence of administrative authorities. Countries that have drawn a clearer line between administrative and criminal sanctions include Portugal, Italy and the Netherlands.

In Poland, after regaining independence in 1918, the concept of administrative liability[41] and a separate constitutional provision on criminal and administrative liability emerged.[42] As pointed out by the Polish administrative law expert S. Kasznica, who lived during the interwar period, certain administrative authorities were given the right to punish particular offences specified in statutes. As a result, administrative bodies became, to a certain extent, criminal courts, and their jurisprudence was of a criminal-administrative nature. The adoption of this structure became the basis for the introduction of legal regulations in the form of a decree with the force of law issued by the President of RP in 1928 on criminal-administrative proceedings, which was the precursor to the current Law on Proceedings in Misdemeanour Cases.

In the 1970s, J. Filipek[43] pointed to the expansion of criminal-administrative sanctions, which had become an integral part of the Polish legal system, and predicted that it was unlikely that the legislator would decide to abandon this form of repression; on the contrary, an increase in their number could be expected. A characteristic feature of sanctions in Polish administrative law was their multitude and diversity, unheard of in other areas of law.

In the 1990s, the Constitutional Tribunal, in its judgement of 1 March 1994, ref. no. U 7/93,[44] stated that in public law, financial penalties are used to encourage entities subject to non-financial obligations to fulfil those obligations in a timely and proper manner, and the repressive element of an administrative penalty means that its amount cannot be determined by an executive act, but should be regulated by a statute.

Unfortunately, in Poland, the issue of imposing penalties for administrative offences in administrative proceedings remained outside the scope of interest of the legislator for decades, the lack of a definition led to terminological chaos,

39 | Niżnik-Dobosz 2011, 129.
40 | Staniszewska 2016, 68.
41 | Marek 1967, 81.
42 | Kasznica 1947, 16.
43 | Filipek 1974, 117.
44 | OTK 1994, part I, 5.

and specific provisions used diverse terms such as 'penalty fees', 'increased fees', 'administrative fines', 'additional tax liabilities' or 'financial penalties'.

2.2.2. Administrative financial penalties in environmental protection

Since 2002, two types of financial administrative sanctions have been introduced into environmental law. In addition to the existing administrative financial penalties (imposed in the form of decisions) and new increased fees, a specific type of sanction in the form of product fees has appeared, whereby the fees are subject to the principle of self-assessment.[45]

The regulation of administrative penalties in environmental protection is also very scattered. Penalties are imposed on the basis of provisions including:

1) The Environmental Protection Law[46] (Section III 'Administrative fines' in provisions 298–315k P.o.ś.);
2) The Nature Conservation Act[47] (Arts. 88–90 u.o.p.);
3) The Water Law Act[48] (Section XIa 'Administrative fines');
4) The Waste Act[49] (Chapter II 'Administrative fines' Arts. 194–202 u.o.);
5) The Act on Access to Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessment[50] (Section VIIA 'Administrative fines' Arts. 136a–136c u.u.i.ś.).

It should be noted that these provisions not only specify penalties for specific offences, the amount of penalties, issues of deferral, payment in instalments or remission of penalties, but also procedural issues concerning the proceedings for imposing penalties, deadlines, higher authorities, situations requiring the initiation of enforcement proceedings allowing for the compulsory collection of the amount of the penalty together with interest.

It is also necessary to draw attention to the normative solution adopted, according to which the provisions of Art. 315c. P.o.ś., Art. 202 u.o. or 136c. u.u.i.ś. refers to financial penalties for the relevant application of Section III 'Tax obligations' of the Act of 29 August 1997 – Tax Ordinance,[51] except that the powers of the tax authorities are vested in the provincial environmental protection inspector. As indicated by K. Karpus,[52] the provincial environmental protection inspector exercises the powers of the tax authority within the scope of assessing and collecting the amount

45 | Jaworowicz-Rudolf 2021, 209.
46 | Act of 27 April 2001 Environmental Protection Law, J.L. 2025, 647, as am., hereinafter: 'P.o.ś.'.
47 | Act of 16 April 2004 on Nature Conservation, J.L. 2024, 1478, as am., hereinafter: 'u.o.p.'.
48 | Act of 20 July 2017 on Water Law, J.L. 2025, 960, hereinafter: 'P.w';
49 | Act of 14 December 2012 on waste, J.L. 2023, 1587, as am., hereinafter: 'u.o.'.
50 | J.L. 2024, 1112, as am., hereinafter: 'u.u.i.ś.'.
51 | J.L. 2025, 111, as am., hereinafter: 'O.p.'.
52 | Bukowski et al. 2013.

due, which is the penalty. The solution applied here is characteristic of public levies and financial sanctions collected or imposed on the basis of environmental protection law. The proceeds from penalties represent revenue for the National Fund for Environmental Protection and Water Management instead of the state budget. However, as indicated by the Supreme Administrative Court in its judgement of 2024,[53] this provision does not preclude the application of Art. 189f § 1(1) Kpa to this type of penalty, because the provisions of Section III P.o.ś. do not regulate the institution of waiving the imposition of a tax liability, which can be applied accordingly to financial penalties, including the financial penalty under Art. 315a Kpa. Only in such a case would it be permissible to exclude the application of Art. 189f § 1(1) Kpa on the basis of Art. 189a § 2(2) Kpa. However, in another judgement of 2024,[54] the court indicated that with regard to administrative financial penalties, the provision of Art. 68, para. 1 O.p, in cases concerning such penalties imposed on the basis of P.o.ś., cannot be applied either directly or with modifications. In this regard, the court referred to the provisions of Art. 189g, paragraph 1 Kpa, Art. 189h, paragraph 1 Kpa and Art. 189h, paragraph 4 Kpa. It must therefore be concluded that, in this respect, the provisions of Section IVa Kpa 'Administrative financial penalties', rather than the Tax Ordinance, will apply to the guidelines for determining the penalty and the circumstances that may mitigate or aggravate its amount by a public administration body under the current legal framework.

As indicated in three of the aforementioned acts, in cases concerning administrative financial penalties, reference was made to the relevant application of the provisions of Section III of the Tax Ordinance, granting the powers of the tax authority to the provincial environmental protection inspector. However, the Nature Conservation Act does not contain such a reference, as can be inferred from the competence of the commune head (mayor, city president in this respect (Art. 88 u.o.p.).

2.2.3. Administrative financial penalties in administrative proceedings

As pointed out by the Ombudsman,[55] for decades there has been a lack of general regulations in administrative law governing issues such as: the concept of administrative sanctions, the rules of liability for administrative offences, the expiry of the punishability of an offence due to the passage of time, the exclusion of administrative liability for an act constituting an administrative offence, and the manner of formulating administrative sanctions. Z. Kmieciak[56] and J. Wegner[57] emphasised that the long-standing lack of general provisions on administrative

53 | Supreme Administrative Court judgement of 20 February, 2024, III OSK 3169/21, Legalis.
54 | Supreme Administrative Court judgement of 16 July, 2024, III OSK 2402/22, Lex No. 3750561.
55 | Letter from the Ombudsman to the Minister of Administration and Digitisation 2013.
56 | Kmieciak 1997, 3.
57 | Wegner 2021, 998.

sanctions in the domestic system, coupled with the growth of administrative regulations of a punitive nature, was considered an unfavourable situation, for example for individuals deprived of adequate protection against repression by the administration. This issue was addressed in case law in 2014 in a judgement of the Constitutional Tribunal[58] concerning an administrative fine for violating a provision of the Nature Conservation Act.[59]

For this reason, in 2017,[60] the Code of Administrative Procedure was supplemented by Chapter IVa. 'Administrative financial penalties', standardising the legal definition of the concept, their scope of application, the principle of applying the more lenient law, guidelines for imposing penalties, exclusive punishability in cases of force majeure, waiver of penalties, limitation periods and leniency measures. As indicated by G. Radecki,[61] the provisions were intended to remove systemic deficiencies in the imposition of penalties that had long been raised in literature and case law.

In response to some of the demands of the judiciary and legal doctrine,[62] the Polish legislator introduced the legal definition of the term 'administrative financial penalty' in Art. 189b Kpa, added as a result of the 2017 amendment, according to which such a penalty is to be understood as a financial sanction specified in the Act, imposed by a public administration body, by way of a decision, as a result of a violation of the law involving the failure to fulfil an obligation or a violation of a prohibition imposed on a natural person, a legal person or an organisational unit without legal personality. Thus, the scope of this concept in the Polish legal system was defined and the freedom of interpretation was limited.

2.3. Public administration bodies with supervisory and control powers

The structure of public administration bodies in Poland, which have been entrusted with supervisory and control tasks as part of the division of competences, is diverse.

Firstly, pursuant to Art. 379(1) P.o.ś., supervisory and control tasks are performed by:

58 | Constitutional Tribunal judgement of 1 July 2014, ref. no. SK 6/12, J.L., p. 926, OTK-A 2014, no. 7, 68.
59 | The case concerned the obligation of the competent local government authority to impose an administrative fine for the removal without the required permit or destruction by the property owner of a tree or shrub in a strictly defined amount, regardless of the circumstances of the act. The Constitutional Tribunal said that Art. 88(1)(2) & art. 89(1) of the Act were inconsistent with Art. 64(1) & (3) in conjunction with Art. 31(3) Constitution of RP (J.L. No. 78, 483, as am).
60 | Act of 7 April, 2017 amending the Act – Code of Administrative Procedure and certain other acts, J.L., 935, hereinafter: '2017 amendment'.
61 | Radecki 2020, 168.
62 | As Wegner points out, non-pecuniary penalties remain outside the scope of the Code. Wegner 2023, 1006.

- government administration bodies (the minister responsible for climate issues);
- local governments, which are the provincial marshals in the province, the district administrators in the district (cities with district rights) and the commune administrators (mayor or city president) in the communes. The designated local government bodies may authorise employees of their subordinate offices (provincial, district, city or commune offices or commune guard officers) to perform control functions.

Secondly, under specific provisions, supervisory and control powers are entrusted to:

- the regional director for environmental protection, a central government administration body established under the Act on access to information on the environment and its protection, public participation in environmental protection and environmental impact assessments, performing the tasks specified in Art. 127 u.u.i.ś, and is also the authority responsible for nature conservation within the meaning of Art. 91 u.o.p.;
- the competent authority of Polish Waters (including the President of Polish Waters), and with regard to Polish Waters – the minister responsible for water management pursuant to Arts. 472a P.w., 472aa(2) P.w., and Art. 472b(6) P.w.

Thirdly, specialised inspection authorities have been established within the public administration structures, which have control tasks imposed on them by law. These include:

- the State Environmental Protection Inspectorate,[63] a specialised central public administration body whose main task is to monitor compliance with environmental protection regulations (including entities using the environment), monitor the state of the environment, as well as make decisions on suspending activities carried out in violation of environmental protection requirements or in violation of the conditions for using the environment (Arts. 2(1)(1), (2) and (3) u.i.o.ś.);
- State Sanitary Inspection,[64] a specialised body that carries out environmental inspections, particularly where there is a threat to public health. It has many powers directly protecting the environment (sanitary regulations for the protection of water quality, waste management, chemical safety, radiological protection, and the investment and construction process).[65]

63 | Act of 20 July, 1991 on Environmental Protection Inspection, J.L. 2024, 425 (hereinafter: 'u.i.o.ś.').
64 | Act of 14 March, 1985 on the State Sanitary Inspection, J.L. 2024, 416.
65 | Bojar-Fijałkowski 2019, 81–138.

2.4. Initiation of proceedings in the field of administrative offences

Administrative proceedings concerning administrative offences may be initiated *ex officio*:

1) *ex officio*, most often as a result of control activities, and in particular on the basis of measurements or other evidence, technical and technological data obtained during such activities (e.g. Art. 299(1)(1) P.o.ś., provincial environmental protection inspector);
2) *ex officio* based on measurements carried out by an entity using the environment, obliged to carry out such measurements (e.g. Art. 299(1)(2) P.o.ś., provincial environmental protection inspector);
3) *ex officio* as a result of a request to initiate proceedings submitted by a social organisation (Art. 31 Kpa);
4) as a consequence of a notification (e.g. a report from a neighbour).

Government authorities (Minister for Climate) and local government authorities (voivode, district administrator, commune administrator, mayor, city president) authorised to carry out inspections pursuant to Art. 379(2) P.o.ś. are entitled to: enter the premises with experts and the necessary equipment; request written or oral information and summon and question persons to the extent necessary to establish the facts; request the presentation of documents and access all data related to the subject matter of the inspection.

The scope of powers of environmental protection inspection authorities carrying out inspections pursuant to Art. 9(2) u.i.o.ś. is much broader and includes, among other things, requests to suspend the operation or start-up of installations or equipment, or to impose fines in summary proceedings for environmental offences. On the basis of the findings of the inspection, the provincial environmental protection inspector may: 1) issue a post-inspection order to the manager of the inspected organisational unit or a natural person; 2) issue post-inspection recommendations on the basis of separate regulations; 3) issue an administrative decision on the basis of separate regulations; 4) initiate enforcement if the obligation arises from the law or an administrative decision. During the inspection, the provincial inspector may issue a decision (with immediate effect) to suspend: 1) activities that pose a threat to human health or life or a threat of environmental destruction; 2) the commissioning of a building, complex of buildings or installations that do not meet environmental protection requirements. These decisions exclude the possibility of suspending the execution of the contested act or action by an administrative court (Art. 12(6) u.i.o.ś.).

At this point, it is necessary to point out the institutional and procedural links between general administrative authorities vested with supervisory and control powers (including local government authorities) and the specialised inspection authority. Pursuant to Art. 379(5) P.o.ś. the controlling authority shall request

the provincial environmental protection inspector to take appropriate measures within his competence, forwarding the case file, if, as a result of the inspection, it is found that the inspected entity has violated the provisions of the Environmental Protection Law or there is a reasonable suspicion that such a violation may have occurred. According to M. Górski,[66] this structure addresses two categories of situations where the general authority must apply to the provincial environmental protection inspector: 1) during the inspection, the authority discovered a violation of provisions that the inspector is competent to monitor and, if necessary, enforce supervisory measures; 2) after having conducted an inspection, the authority concludes that its inspection powers are not sufficient to establish a violation of regulations, but such a violation is so likely that it would be necessary to take the measures for which the inspector is authorised. A request for inspection should be based on a reasonable suspicion of a legal violation. This includes a finding that the inspected entity has breached environmental protection regulations and that the inspector has the legal authority to take appropriate action. As the author emphasises, in the circumstances specified in the provision, it is the authority's duty to refer the matter to the provincial inspector.

Regardless of the above provision, in the event of a direct threat to the environment, pursuant to Art. 8a(3) u.i.o.ś., the district administrator or the commune head (mayor, city president) may submit a request, including a justification, to the provincial environmental protection inspector to take measures within his tasks and competences to remove the threat, when taking such measures goes beyond their tasks and competences.

However, in certain cases specified by law, the provincial marshal has the power to impose a fee for the economic use of the environment on an entity using the environment by way of a decision (Art. 288(1) P.o.ś.). The substantive basis for the marshal's decision is the findings of the relevant marshal's services or the results of an inspection conducted by the provincial environmental protection inspector.[67]

Pursuant to Art. 31, para. 1(1) Kpa a public administration body may also initiate administrative proceedings *ex officio* at the request of a social organisation if this is justified by the statutory objectives of that organisation and if it is in the public interest. If the administrative authority considers the request of the social organisation to be justified, it shall decide to initiate proceedings. An appeal may be lodged against a decision refusing to initiate proceedings or admitting a social organisation to participate in the proceedings. Once proceedings have been initiated or the social organisation has been admitted to the proceedings, it shall participate in them as a party.

66 | Górski 2011, 1274.
67 | Ibid., 2021, 111.

Preferential rules are laid down in Art. 44 P.o.ś. for environmental organisations which, referring to their statutory objectives, express their willingness to participate in specific proceedings requiring public participation, participate in them as a party if they have been conducting statutory activities in the field of environmental protection or nature conservation for at least 12 months prior to the date of initiation of such proceedings.

In the event of a breach of environmental protection requirements, proceedings concerning the violation of environmental protection law are conducted before the designated public administration authorities. The subject of the proceedings is the imposition of sanctions such as administrative fines. The decision to apply sanctions takes the form of an administrative decision.

2.5. Initiation of proceedings for an offence

The environmental protection inspectorate has also been given powers to prosecute offences and crimes against the environment (Art. 10b u.i.o.ś.). In cases of offences against the environment, the inspection authorities have the power of a public prosecutor even if the request for sanctioning the offence has been submitted by another authorised prosecutor. If it is found that an act or omission meets the criteria of an environmental offence, the environmental protection inspection authorities should notify the authority responsible for prosecuting offences for the commission of a violation, attaching evidence documenting the suspicion. The inspection authorities may also request any public administration authority or the police to provide information or make available documents and data related to environmental protection.

3. Procedural rights of the parties

3.1. Guarantees of procedural rights of parties in proceedings for the imposition of administrative sanctions

In criminal law doctrine, the view has been expressed[68] that the legislator deliberately refrains from sanctioning acts punishable by criminal sanctions in the form of misdemeanours in favour of administrative sanctions. On the one hand, this makes it easier to apply such sanctions, but on the other hand, it poses a huge threat to citizens, whose possibilities of defending themselves against state actions are much more limited. The dangers of using this form of repression have been recognised by the Ombudsman,[69] who points out that administrative fines are

68 | Czichy 2017, 93.
69 | Letter from the Ombudsman 2013.

being used increasingly, often replacing the existing liability for offences, which has numerous negative consequences for those subject to punishment. In the case of administrative sanctions, there is no such extensive catalogue of guarantees (such as the presumption of innocence or liability based on the principle of guilt) as is the case under general criminal law.

This raises the question of the existence of procedural guarantees for a party against whom proceedings have been initiated and an administrative financial penalty has been imposed. The procedural guarantees of parties to administrative proceedings, both natural and legal persons, are ensured primarily through the implementation of the principles set out in the Code of Administrative Procedure. As J.P. Tarno points out,[70] several decades of experience with judicial review of administrative actions confirm the validity of the assertion that general principles should be used to ensure adequate protection of the legal interests of individuals, meeting the criteria appropriate for a democratic state governed by the rule of law. The participation of society, including through the admission of social organisations to administrative proceedings,[71] the existence of procedures allowing for the verification of public authority decisions through administrative channels by a higher authority, and judicial review of administrative decisions constitute procedural guarantees for the parties.

3.2. The principle of proportionality and the imposition of administrative sanctions

The standard for European administrative procedure was set by the Committee of Ministers of the Council of Europe in Recommendation No. R (91) 1 on 13 February 1991 on administrative sanctions.[72] Administrative authorities enjoy considerable powers to impose sanctions, which results from the increase in the administrative tasks of the state, as well as a visible trend towards decriminalisation. The Committee also noted that, from the point of view of protecting individuals, it is desirable to curb the spread of administrative sanctions, which, although they act quickly and automatically, also pose a threat to the interests of individuals. Therefore, the recommendation contains a number of principles setting out the minimum standard for the use of administrative penalties.

The Polish Constitutional Tribunal, in its judgements of 30 November 2004, ref. SK 31/04,[73] and of 14 October 2009, ref. Kp 4/09,[74] stated that the advantages

70 | Tarno 2018, 57.
71 | Haładyj 2013, 45.
72 | Council of Europe, Committee of Ministers, Recommendation R (91) 1 on administrative sanctions, adopted by the Committee of Ministers on 13 February 1991, https://rm.coe.int/16804fc94c [06.10.2025], hereinafter cited as: CMRE Rec. R (91)1.
73 | OTK ZU No. 10/A/2004, 110.
74 | Constitutional Tribunal judgement of 14 October 2009, ref. no. Kp 4/09, M.P. 2009 no. 68, 888.

of a system of administrative penalties imposed in an informal manner are the promptness of punishment and the low costs of proceedings. However, the rationalisation of prosecution and punishment by creating different procedures in this area must be accompanied by attention to creating additional instruments ensuring the proportionality and effectiveness of protecting the interests of the administratively sanctioned entity. When determining the penalty for a violation of the law, the legislator must, in particular, respect the principle of proportionality of the offence. Therefore, it cannot apply sanctions that are obviously inadequate or unreasonable, or disproportionately severe.

Since 2017, Art. 189d Kpa has introduced guidelines for determining the penalty, i.e. circumstances that may either mitigate or aggravate the penalty imposed by a public administration body. When imposing an administrative financial penalty, the public administration body takes into account: 1) the gravity and circumstances of the violation of the law, in particular the need to protect life or health, to protect property of significant value or to protect an important public interest or an exceptionally important interest of a party, and the duration of the violation; 2) the frequency of past failures to comply with an obligation or violations of a prohibition of the same type such as the failure to comply with an obligation or violation of a prohibition for which the penalty is to be imposed; 3) previous punishment for the same behaviour for a criminal offence, fiscal offence, misdemeanour or fiscal misdemeanour; 4) the degree to which the party on which the administrative financial penalty is imposed contributed to the infringement of the law; 5) actions taken voluntarily by the party to avoid the consequences of the violation of the law; 6) the amount of benefit that the party has gained or the loss that it has avoided; 7) in the case of a natural person, the personal circumstances of the party on whom the administrative fine is imposed.

The guidelines apply in cases where the decision on the penalty is made within the scope of discretionary powers (administrative discretion), freedom to determine the amount of the penalty within a specified range, or where the amount of the penalty is fixed but the provision allows for a waiver of the penalty.[75] The penalty guidelines will not apply in situations where substantive law links a given infringement to a predetermined penalty, without providing for the possibility of mitigating or waiving the penalty and replacing it, for example, with a warning.

3.3. Procedural safeguards to prevent arbitrary enforcement

The imposition of an administrative fine requires administrative proceedings to be conducted, during which the following should be analysed: the facts of the case, the violation of the law and the amount of the fine imposed. The party has the right to actively participate in any proceedings and may present circumstances

75 | Dańczak 2021, 274.

in its favour during those proceedings, and not only in the context of an appeal against the decision on the penalty. However, there is a clear lack of provisions on legal aid in terms of the possibility of appointing a representative (solicitor or legal adviser) and free legal aid in administrative proceedings for the imposition of an administrative fine, similar to administrative court proceedings.

The Code of Administrative Procedure has created several procedural guarantees to prevent the arbitrary enforcement of provisions on sanctions for administrative offences. These include: 1) interim guidelines for the imposition of penalties, 2) exclusion of the possibility of imposing an administrative fine on the parties, 3) waiver of its imposition, and 4) relief from the enforcement of an administrative fine.

The first procedural guarantee, separate from the above-mentioned sentencing guidelines, is the additional sentencing guideline indicated in Art. 189c Kpa. This is a so-called transitional provision indicating that if, at the time of issuing a decision on an administrative financial penalty, a law other than that in force at the time of the infringement of the law for which the penalty is to be imposed is in force, the new law shall apply, but the previously applicable law shall be applied if it is more favourable to the party. The established rule refers to the principle of the non-retroactivity of the law, ensuring that a party cannot suffer damage due to a change in the law to its disadvantage.

As indicated by A. Krawczyk,[76] the introduction of this provision is a manifestation of the *lex mitior agit* principle, recognised as a European standard in the sphere of repressive proceedings, derived from Art. 7(1), second sentence, of the European Convention on Human Rights[77] and the recommendation of the Council of Europe Committee of Ministers R (91)1. In the author's opinion, this provision is an almost verbatim repetition of the regulation included in Polish criminal law and in cases concerning misdemeanours, with the only difference being that the interim issue arises at the 'time of issuing the decision'.

The second procedural guarantee is the exclusion of the possibility of imposing an administrative fine on a party. This occurs in two situations specified in Arts. 189g and 189e Kpa:

1. The statute of limitations – Art. 189g, para. 1 Kpa, which defines the situation referred to in substantive administrative law as the statute of limitations for imposing an administrative financial penalty. In accordance with the provisions of paragraph 1 of the aforementioned article, an administrative financial penalty cannot be imposed if five years have elapsed since the date of the violation of the law or the occurrence of the effects of the violation of the law. The five-year limitation period does not apply to cases where

76 | Krawczyk 2019, 987.
77 | Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005), ETS No. 005 Rome 04/11/1950.

separate provisions provide for a time limit after which proceedings cannot be initiated to impose a penalty or to establish a violation of the law, as a result of which an administrative financial penalty may be imposed. Furthermore, Art. 189g, paragraph1 Kpa provides for the statute of limitations on the enforceability of penalties, which means that enforcement cannot be initiated after 5 years from the date on which the administrative financial penalty imposed on the party should have been enforced.

2. The institution of exclusion of the possibility of punishment also applies in the event of *force majeure*. A party is not subject to punishment if the violation of the law occurred as a result of *vis maior* (Fr: *force majeure*), i.e. circumstances which the party could not have foreseen or overcome, such as a natural disaster. P. Majczak[78] points out that the concept of *force majeure* has no legal definition. In case law,[79] it is interpreted as a random or natural event that is impossible to avoid and over which humans have no control. Most often these are natural disasters, as well as extraordinary disruptions to social life, such as war, civil unrest, hurricanes and floods. In order to apply Art.189e Kpa, there must be a causal link between *force maj*eure and the violation of the law. As J. Wegner points out[80], this provision does not establish a counter-type, because it does not remove unlawfulness, but only punishability. Thus, a decision considering proceedings on this basis must establish the occurrence of an offence, which, however, is not punishable.

The third procedural guarantee is the possibility of waiving the imposition of a financial penalty provided for in Art. 189f Kpa. This is another institution modelled on solutions adopted in criminal law and including in the waiver of punishment. As J. Wegner points out,[81] the waiver provided for in Art. 189f Kpa, is an institution allowing the authority to refrain from imposing a penalty, despite finding that an administrative offence has been committed and determining the entity responsible for it, if there are special circumstances specified in the Act that make the punishment unjustified, without prejudice to the objectives of administrative and legal regulation. A public administration authority, by way of a decision, waives the imposition of an administrative financial penalty and confines itself to issuing a warning if:

1) the gravity of the violation of the law is negligible, and the party has ceased to violate the law, or
2) for the same behaviour, an administrative fine has previously been imposed on the party by another competent public administration authority by a final decision, or the party has been finally punished for a misdemeanour

78 | Majczak 2020, 116.
79 | Supreme Administrative Court judgement of 4 April, 2019, II GSK 1018/17.
80 | Wegner 2021, 1025.
81 | Ibid., 1026.

or fiscal offence or has been validly convicted of a criminal offence or fiscal offence and the previous penalty fulfils the purposes for which the administrative fine would be imposed. The aim here is to prevent the accumulation of grounds for repressive liability in accordance with the *ne bis in idem* rule.

If this allows the objectives for which the administrative fine would be imposed to be achieved, the public administration authority may, by way of a decision, set a deadline for the party to submit evidence confirming: 1) the removal of the infringement of the law, or 2) the notification of the competent entities of the infringement of the law, specifying the deadline and manner of notification. The public administration body shall refrain from imposing an administrative fine and shall limit itself to issuing a warning if the party has presented evidence confirming the implementation of the decision.

The fourth procedural guarantee is the legal possibility of granting relief from the enforcement of an administrative fine. This situation is provided for in Art. 189k Kpa. A party obliged to pay an administrative fine may apply to the public administration body that imposed the fine for relief in the enforcement of the fine. Such relief is granted by way of an administrative decision and must be justified by an important public interest or an important interest of the party. The forms of relief that may be granted by the administrative authority are exhaustively regulated. According to the provision, relief in the enforcement of an administrative financial penalty may consist of: 1) postponing the date of enforcement of the penalty; 2) spreading it out in instalments; 3) postponing the date of enforcement of an outstanding administrative financial penalty or spreading it out in instalments; 4) remitting the administrative financial penalty in whole or in part; 5) remitting interest for late payment in whole or in part. Art. 189k, para. 2 Kpa provides that the cancellation of an outstanding administrative fine also results in the cancellation of interest for late payment in whole or in part, to the extent that the outstanding administrative fine has been cancelled. As J. Wegner points out,[82] a decision on relief from the enforcement of an administrative financial penalty is a discretionary decision, so the authority may (but is not obliged to) grant relief if it concludes that this is in the significant public interest or in the vital interest of the parties.

4. Appeals and remedies in proceedings

Appeals against administrative penalties and decisions in Poland are made in accordance with the rules set out mainly in Kpa and in specific laws (e.g. the Environmental Protection Law or the Act on Access to Information on the Environment and its Protection, Public Participation in Environmental Protection and

82 | Wegner 2021, 1053.

Environmental Impact Assessment, which may provide for derogations from the rules laid down in the Code).

In all cases where an administrative decision imposing administrative fines is issued, the parties (as well as the prosecutor and public interest advocates) have the right to appeal to a higher authority than the one that issued the decision (Art.129 Kpa). If there is no such authority, the party has the right to a special remedy under Art. 127, paragraph 3 Kpa – a request for reconsideration of the case submitted to the same authority (the Minister for Climate or a central administrative authority, e.g. the Chief Inspector of Environmental Protection).

A social organisation admitted to participate in the proceedings as a party under Art. 31 Kpa may lodge an appeal (i.e. its participation in the first instance is *a sine qua non* condition). However, pursuant to Art. 44 u.u.i.ś., an environmental organisation has the right to appeal against a decision issued in proceedings requiring public participation if this is justified by the statutory objectives of that organisation, even if it did not participate in specific proceedings requiring public participation conducted by the first instance authority; lodging an appeal is tantamount to expressing a willingness to participate in such proceedings. In the appeal proceedings, the organisation participates as a party.

If the decision is upheld by the appeal body, the party has the right, under the provisions of the Law on Proceedings before Administrative Courts,[83] to lodge a complaint with the provincial administrative court and then a cassation complaint with the Supreme Administrative Court. Pursuant to Art. 44(3) u.u.i.ś. an environmental organisation may also lodge a complaint with an administrative court against a decision issued in proceedings requiring public participation if this is justified by the statutory objectives of that organisation, even if it did not participate in the specific proceedings requiring public participation.

Administrative courts play a significant role in controlling the activities of public administration by adjudicating complaints against decisions in the field of environmental protection, including decisions imposing administrative fines, taken by public administration bodies.

5. Enforcement of administrative decisions

5.1. Mechanisms ensuring compliance with administrative decisions

The mechanisms ensuring compliance with administrative decisions in Poland are aimed at enforcing their implementation. They are primarily set out in Kpa, the Act on Enforcement Proceedings in Administration and in specific acts (e.g. the Environmental Protection Law).

83 | Act of 30 August, 2002 on proceedings before administrative courts, J.L. 2024, 935, as am.

Art.108 Kpa provides for an instrument of immediate enforcement of a decision, referred to as immediate enforceability, which is included as a clause in an administrative decision or a subsequent ruling. An authority may grant immediate enforceability to a decision if: it is required by public interest or the important interest of a party, or the decision concerns an obligation that must be performed immediately. The lodging of an appeal does not suspend the enforcement of the decision.

The Act on Enforcement Proceedings in Administration applies when the addressee of the decision does not comply with it voluntarily. In Poland, there are two types of enforcement: 1) enforcement of financial obligations (e.g. penalties, fees), including through seizure of bank accounts, remuneration, movable property, immovable property; 2) enforcement of non-financial obligations (e.g. demolition order, prohibition of activity). To this end, the enforcement authorities may use the following: a fine for coercion, which is a coercive measure applied when the addressee fails to fulfil the obligation imposed by the decision. It may be imposed repeatedly until the obligation is fulfilled. It is applied, for example, in cases of failure to remove waste, failure to cease activities, or failure to submit documents.

- substitute performance – the authority itself will perform the obligation at the expense of the obligated party when the obligation can be performed by an entity other than the obligated party (e.g. demolition, waste removal), and subsequently the authority orders the task to be performed at the expense of the obligated party,
- collection of items, in situations where the obligated party must surrender a specific item (e.g. animals, documents). The authority has the right to collect it by force, often with the help of the police or a bailiff.

The Environmental Protection Inspection and Sanitary Inspection authorities have the right to use coercive measures or notify the enforcement authority if, as a result of an inspection, they conclude that the decision is not being implemented.

5.2. Additional sanctions for non-compliance

The most common form of sanction for violating the standards set out in the decision is the imposition of administrative fines. For example:

- the penalty for unauthorised emissions provided for in the Environmental Protection Law. Pursuant to Art. 276 P.o.ś., an increased fee applies for using the environment without obtaining the necessary permit or decision. In the event of use of the environment in excess of or in violation of the conditions specified in the permit or other decision, the entity using the environment shall, in addition to the fee, pay an administrative fine.

- for failure to comply with an environmental decision pursuant to Art. 136a(1) (1) u.u.i.ś., a financial penalty of between 5,000 PLN and 1,000,000 PLN shall be imposed. This penalty is imposed by the decision of the provincial environmental protection inspector, taking into account the number and severity of the violations found.
- in water law, the penalty for illegal water abstraction – Art. 472aa of the Water Law. The provision entered into force with the amendment to the Water Law Act[84] on 1 January, 2024 authorising the competent authority of the State Water Management Authority to impose administrative fines, *inter alia*, in the case of water use, operation of water facilities, works in waters or other activities requiring a water permit, without obtaining such a permit.

The amount of penalties is usually specified in the Act, occasionally as a range (tariff penalties) where their amount is calculated based on the degree of violation. A fixed rate is used less frequently. It should also be noted that the proceeds from administrative fines constitute revenue for the state budget (Art. 31c(4) u.i.o.ś, or Art. 136b(4) u.i.o.ś.), Polish Waters (Art. 255(1a) Water Law), the National Fund for Environmental Protection (Art. 401(7)(1a) P.o.ś.), and the budgets of counties and municipalities (Art. 277(4) and Art. 402(2), (4) and (5) P.o.ś.).

6. Assessment of the effectiveness of Polish legal regulations on administrative offences in environmental protection cases

As indicated by Z. Kmieciak,[85] the initiation of law-making work should be accompanied by a conviction of the advisability of legal intervention, resulting from a comprehensive assessment of the phenomena occurring. Often, an analysis of legislative measures taken shows that sometimes consideration of whether a given type of instrument is appropriate for achieving the objectives is overlooked. As indicated in the doctrine,[86] both in Poland and in many other EU countries, we observe a clear tendency of legislators to impose administrative penalties for violations of the law, which they consider to be administrative offences. However, legislators often do so without giving it much thought and regulate the issue in such a way that the penalties imposed serve public interests, without fully ensuring that they comply with international human rights principles.[87]

84 | Art. 472aa supplemented by Art. 13(32) of Act of 13 July, 2023, J.L. 2023, 1963, amending this Act as of 1 January, 2024.
85 | Kmieciak 1994, 48.
86 | Staniszewska 2016, 68.
87 | It also analyses Polish solutions to the issue of responsibility and sanctions for illegally dumped waste: Uhri & Nemes 2024, 225–254.

Polish legal regulations, developed gradually over decades, are characterised by a kind of hypertrophy, an excessive increase in quantity and casuistry of provisions. These regulations are scattered and complex, with substantive environmental law solutions found in many legal acts, characterised by great diversity. Unfortunately, it is also often contextual, with individual provisions regulating specific situations defined in legal language, processes or areas, rather than the entire field, thus limiting its effectiveness. The legal solutions adopted are rather extensive, characterised by dynamic changes, and the legislative technique used makes them completely uncommunicative. As indicated, the Polish legislator establishes many, not necessarily specialised bodies authorised to impose sanctions, while having a focused environmental protection inspection within the apparatus of authorities. As a result, penalties are not applied consistently and vary greatly. Furthermore, some of the procedural provisions in the field of environmental protection – and it is also significant that only some of them – refer to the application of tax liability provisions in the enforcement of administrative fines, because only the Tax Ordinance contains such provisions. However, these provisions were not correlated with Chapter IVa Kpa introduced in 2017, which established guidelines for the imposition of penalties for administrative violations, leaving room for interpretation by administrative courts.[88]

7. Summary and challenges in the field of administrative procedural law

In Poland, the greatest achievement of the last decade has been the introduction of general provisions on administrative penalties into Kpa. Despite many proposals from legal scholars,[89] it was not until 2017 that general provisions were developed in administrative law that would address the issue of administrative offences and the rules for imposing penalties. As pointed out by M. Niezgódka-Medek and M. Szubiakowski,[90] this state of administrative law raised doubts from the point of view of the principle of social justice and other principles applicable in a democratic state governed by the rule of law, including the principle of proportionality. This was repeatedly pointed out in the case law of the Constitutional Tribunal referred to in this study, which relates to administrative sanctions. In its case law, the Polish Tribunal treats administrative sanctions as other forms of repressive liability and emphasises the need to maintain a similar standard when determining them as in the case of criminal liability. For this reason, the newly introduced Chapter IVa sets out general principles relating to both substantive and procedural issues, thus

88 | For interpretations of human rights and European court rulings affecting Polish law, see: Ujhelyi-Gyurán, Lele & Pártay-Czap 2024, 203–224.
89 | Wyrzykowski & Ziółkowski 2012, 361 and the literature indicated therein.
90 | Niezgódka-Medek & Szubiakowski 2016, 236–237.

supplementing the provisions contained in specific environmental protection laws. The introduced provisions are also intended to counteract arbitrariness by limiting possible decision-making leeway with the premises of legitimate interest of the party or public interest.

Challenges in the field of administrative procedural law are currently the subject of intense debate, particularly in the context of the digitisation of administration, the protection of individual rights and the efficiency of proceedings. Despite intensive research into a new model of misdemeanour law,[91] there are no plans to combine liability for traditional misdemeanours with liability for administrative offences.

91 | Wróbel et al. 2024, passim.

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