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Administrative Procedural Law in the Czech Republic

Abstract

This article examines the administrative procedural law in the Czech legal system. It first defines the concept, its position within the legal system, and the key sources of legal regulation. It then addresses proceedings concerning offences, from their detection and investigation to the initiation of proceedings and the procedural steps involved in transferring cases between administrative and criminal justice authorities. Further, it analyses the procedural rights of the accused, including the rights of both natural and legal persons, as well as the related guarantees intended to ensure the predictability, reviewability, and fairness of the exercise of the state power. It also discusses the possibilities of reviewing administrative decisions, including ordinary and extraordinary remedies, and the stages of enforcement of administrative decisions together with the mechanisms designed to ensure compliance. The final section addresses the main challenges of administrative procedural law, especially the effectiveness of proceedings, the uniformity of sanctions, the demarcation between administrative and criminal law, and cooperation among authorities. The article also outlines prospects, particularly the standardisation of administrative penalties and the potential role of automation and artificial intelligence in administrative decision-making.

Keywords: Administrative procedural law, offence proceedings, procedural rights of the accused, review of administrative decisions on offences, enforcement of administrative decisions

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1. Introduction

Administrative law is a branch of public law regulating the status and conduct of entities in relationships arising from the exercise of power in the state within the sphere of public administration.[1] Administrative procedural law constitutes its subsystem and governs the procedures of administrative authorities when applying substantive administrative law. Its function is to ensure that public administration acts lawfully, transparently, and fairly, in accordance with the rule of law. While substantive administrative law defines public rights and obligations, procedural law governs their implementation in individual proceedings. Together with organisational norms, it forms one of the fundamental pillars of administrative law.[2]

Administrative procedural law is particularly significant in environmental protection, which is primarily implemented through administrative decision-making. Environmental legislation relies on procedural rules to apply substantive norms of nature conservation. A practical example is the felling of trees growing outside forests, which requires prior consent of a competent nature protection authority pursuant to § 8 of Act No. 114/1992 Sb., on Nature and Landscape Protection. During such proceedings, the applicant submits a request, the authority initiates the proceedings, allows participants to raise objections, and issues a reasoned and reviewable decision. The decision may be challenged by an appeal under Act No. 500/2004 Sb., the Administrative Procedure Code (hereinafter the Administrative Procedure Code), and subsequently by an administrative action. Even seemingly minor environmental interventions therefore take place within a procedural framework safeguarding both individual rights and the public interest in preserving greenery.

Administrative procedural law is not comprehensively codified. Its primary source is the Administrative Procedure Code, which governs administrative proceedings. Due to the diversity of administrative relations, numerous special laws contain procedural provisions, the most important of them being Act No. 250/2016 Sb., on Liability for Offences and Proceedings Concerning Them (hereinafter the Act on Liability for Offences), and Act No. 251/2016 Sb., on Certain Offences. In environmental matters, relevant legislation includes, for example, Act No. 283/2021 Sb., the Building Act. These special regulations operate as *leges speciales* in relation to the Administrative Procedure Code; where they lack specific provisions, the general regulation applies subsidiarily.

In certain areas, such as tax administration under Act No. 280/2009 Sb., the Tax Code, special procedural regimes prevail over the general administrative

1 | Průcha 2024, 14.
2 | Skulová et al. 2020, 15–18.

framework. Judicial review of administrative decisions is governed primarily by Act No. 150/2002 Sb., the Code of Administrative Justice,[3] as well as by Act No. 182/1993 Sb., on the Constitutional Court,[4] and Part Five of Act No. 99/1963 Sb., the Code of Civil Procedure.[5] Constitutional sources, including the Constitution of the Czech Republic and the Charter of Fundamental Rights and Freedoms, form an essential normative framework for administrative proceedings.

Provisions of several substantive laws are also relevant to administrative procedural law. In the field of environmental protection, these include, for example, Act No. 148/2023 Sb., on a Unified Environmental Opinion,[6] and Act No. 100/2001 Sb., on Environmental Impact Assessment.[7] The final group of sources of administrative procedural law consists of implementing regulations, such as Decree No. 149/2024 Sb., on the Implementation of Certain Provisions of the Building Act.[8,9]

International treaties, European Union law, Constitutional Court rulings, and the case law of the Court of Justice of the European Union and the European Court of Human Rights[10] may also be included among the sources of administrative procedural law.[11]

2. Proceedings concerning offences

The recodification of administrative punishment, effective from 1 July 2017, fundamentally transformed Czech offence law. The traditional category of 'administrative offences' was abandoned and replaced by the unified concept of an 'offence', encompassing all unlawful acts that are not criminal offences.

3 | It regulates the organization of administrative justice and the court procedures for reviewing decisions made by administrative authorities, as well as protection against inaction and unlawful interference.
4 | It contains rules governing proceedings before the Constitutional Court, which may also review decisions of administrative authorities if they violate the constitutionally guaranteed rights and freedoms of individuals.
5 | This section sets out rules for the review of decisions of administrative authorities by civil courts, particularly in cases where administrative court procedures do not apply (e.g. in matters of pension insurance or state social support).
6 | The Act regulates the procedure for applicants and administrative authorities in issuing a unified environmental opinion.
7 | The Act regulates the process of assessing the impact of planned constructions, facilities, activities, and strategic documents on the environment and on public health.
8 | Horzinková & Novotný 2019, 27–29.
9 | They specify the application of substantive and procedural provisions of administrative regulations or special laws, thereby supplementing the framework of administrative proceedings in specific areas (e.g. building permit proceedings).
10 | For an analysis of the case law of the European Court of Human Rights and the European Court of Justice relevant to environmental administrative matters, see Újhelyi-Gyurán, Lelle & Pártai-Czap 2024, 203–224.
11 | They have a fundamental impact on the interpretation and application of administrative procedural law, particularly regarding the protection of fundamental rights.

Only so-called other administrative offences remain outside the category of offences under the new legislation. These may be further divided into disciplinary offences (unlawful acts committed by a natural person who is bound by a special relationship to an organisation, e.g. an employee or a student) and public order offences (a type of administrative delict whose purpose is to enforce compliance with an imposed obligation, e.g. refusal to provide an explanation to an administrative authority).

The reform clarified terminology and strengthened legal certainty while introducing a coherent system of liability, sanctions, and protective measures under the Act on Liability for Offences. The general part of this Act applies subsidiarily to offences defined in special legislation, unless such legislation provides otherwise. The specific elements of individual offences remain regulated in special laws.[12]

2.1. The concept of an offence

According to the law, an offence is a socially harmful unlawful act expressly designated by law and exhibiting specified characteristics, but which is not a criminal offence.[13] Czech law applies a material-formal concept, meaning that an offence exists only if both the substantive element (social harmfulness) and all formal elements are fulfilled.[14]

The material element means that the act must threaten or harm interests protected by law.[15] Liability for an offence therefore does not arise merely from the fulfilment of formal criteria; the act must also reach a certain minimum degree of social harmfulness, which is why this requirement is sometimes referred to as a material corrective.

The degree of social harmfulness has a dual meaning. On the one hand, it allows for the non-prosecution of the so-called minor offences, i.e. those whose severity is negligible and whose consequences are insignificant. This is particularly relevant in borderline cases where a purely formalistic application of the elements of an offence could be disproportionate or unfair.[16]

A practical example would be minor traffic violations such as failing to carry an identification document during a roadside police check or crossing the road outside a crosswalk. Although these acts may formally appear to be unlawful, they do not necessarily reach the threshold of social harmfulness in every case.

12 | Within the framework of the new legislation, the option of separate procedural legislation was also considered, whereas the option of applying the Criminal Code subsidiarily appeared to be completely unsuitable.
13 | See § 5 of the Act on Liability for Offences.
14 | Strakoš & Kroupová 2017, 24.
15 | Jemelka & Vetešník 2017, 58–59.
16 | Prášková 2022, 137.

The second function of the material element of an offence is that it allows an offence to be distinguished from a criminal offence in situations where the formal characteristics of both may appear identical.[17]

The formal characteristic of an offence are divided into general and specific characteristics. The category of formal specific characteristics includes object, objective aspect, subject, and subjective aspect.[18] In contrast, the category of formal general characteristics includes illegality, general requirements concerning the perpetrator, and the explicit designation of the act as an offence by law. The illegality of an act is a mandatory characteristic of every punishable act, whether an offence or a criminal offence. The absence of unlawfulness means that no offence has been committed. Not every socially harmful act must be declared a criminal offence. Conversely, unlawful conduct is always socially harmful to a certain extent, even if it does not constitute a criminal offence.

The general requirements for perpetrators stipulate that a natural person, a legal entity, or a self-employed person may be a perpetrator. In the case of natural persons, liability requires the attainment of the statutory age and mental capacity at the time the act has been committed.[19] The procedural capacity of legal entities is the subject of debate in the Czech legal environment.[20] The prevailing view is that legal entities do not distinguish between legal personality and legal capacity, and therefore their capacity to be parties to legal proceedings coincides with their procedural capacity.[21] The Act on Liability for Offences does not regulate specific rules for the procedural conduct of legal entities, and it is therefore necessary to proceed from the general provisions of the Administrative Procedure Code, according to which acts on behalf of a legal entity are performed by a person authorised to act for it in proceedings before a court.[22]

In practice, administrative authorities first assess whether the formal requirements are met and subsequently evaluate the degree of social harmfulness.[23] The seriousness of the offence is then reflected in the type and severity of the administrative penalty.[24] In borderline cases, the authority must explicitly justify its assessment of social harmfulness.

17 | Prášková 2022, 135.
18 | Regarding the formal characteristic of an offence consisting in the subjective aspect, it should be noted that this element applies only where the perpetrator is a natural person.
19 | Jemelka & Vetešník 2017, 53–54.
20 | For example, Dvořák 2016, 649–655, and the literature cited therein.
21 | For example, Winterová, Macková & Zoulík 2018.
22 | See § 30 of the Administrative Procedure Code.
23 | For example, the judgment of the Supreme Administrative Court dated September 5, 2011, ref. no. 8 As 41/2010-110, or the judgment dated May 31, 2011, ref. no. 8 As 44/2010-70.
24 | For example, the judgment of the Supreme Administrative Court dated August 9, 2012, ref. no. 9 As 34/2012-28.

2.2. Relationship between offences and criminal offences

As mentioned above, an act constitutes an offence only if it is not a criminal offence. Where the same unlawful act fulfils the elements of both, criminal liability takes precedence, and liability for an offence is subsidiary.[25]

In contrast to offences, the concept of a criminal offence in Czech law is based on a formal concept. This formal concept is balanced by the principle of subsidiarity of criminal repression, according to which criminal liability may be applied only in socially harmful cases where the application of liability under other legal regulations is insufficient.[26] However, according to the case law of the Constitutional Court, the principle of subsidiarity of criminal prosecution is relevant only where it is possible to refrain from punishing the perpetrator's conduct by means of criminal law instruments.[27] This principle therefore does not alter the subsidiarity of offences in relation to criminal offences, even though it entails certain interpretative difficulties (e.g. in assessing whether particular conduct is sufficiently socially harmful).[28]

2.3. Detection, investigation, and prosecution of offences

Proceedings concerning offences aim to determine whether an offence has been committed, identify the perpetrator, legally classify the act, and impose an appropriate administrative penalty. Unlike adversarial criminal proceedings, offence proceedings follow the principle of investigation, meaning that the administrative authority acts *ex officio* and is responsible for establishing the relevant facts. Its position is traditionally described as that of "prosecutor and judge in its own case".[29]

Before initiating proceedings, the administrative authority assesses whether the available information indicates that an offence may have been committed and who is suspected of committing it. Suspicion may arise from the authority's own supervisory activities, complaints by private persons, or notifications from other authorities, including the Police or Military Police. Such authorities are obliged to notify the competent administrative body if they have a reasonable suspicion of an offence falling outside their competence.[30] This constitutes the so-called simple

25 | Prášková 2013, 169.
26 | See § 12(2) of Act No. 40/2009 Sb., the Criminal Code.
27 | See the ruling of the Constitutional Court of July 28, 2014, ref. no. I. ÚS 1521/14, and the ruling of the Constitutional Court of July 26, 2012, ref. no. III. ÚS 1148/09.
28 | Prášková 2022, 140–141.
29 | Prášková 2022, 344–345.
30 | According to § 75 of the Act on Liability for Offences, a public authority shall, without undue delay and upon request of the competent administrative authority, take the necessary steps to investigate a report of an offence, to hear the offence, and to enforce the decision. This cooperation may occur at various stages of the procedure, including the phase prior to the initiation of proceedings, during the administrative proceedings themselves, or during the enforcement stage.

reporting of an offence, i.e. the reporting authorities are not obliged to investigate the reported offence.[31] The law does not require certainty at this stage; credible indications of unlawful conduct are sufficient to consider further action.[32] Other forms are provided for in the Administrative Procedure Code, which states that the information may take the form of a report of an offence submitted by natural or legal persons who are not required by law to report it, referred to as a motion to initiate proceedings.[33] Anyone may file such a motion, not only a future participant in the proceedings, and it may also be filed against an unknown perpetrator.

During the preliminary phase, the authority may request explanations pursuant to § 137 of the Administrative Procedure Code, provided that the relevant facts cannot be established otherwise. Persons requested to provide explanations are obliged to do so; failure to comply without sufficient reason may result in a fine of up to 5,000 CZK (approx. 206 EUR).[34] Failure to appear to provide explanations without a good reason may result in the person being brought before the authority.[35] An official record is drawn up; however, it does not constitute evidence in subsequent proceedings.[36,37]

If the authority concludes that the proceedings would not lead to the offender being punished[38] or would be manifestly uneconomical, the administrative authority shall not initiate proceedings and shall dismiss the matter by means of a resolution,[39] thereby applying the principles of speed and procedural economy.[40]

2.4. Initiation of proceedings for an offence

Proceedings for an offence are always initiated *ex officio*[41] and are governed by the principle of legality.[42] Once the authority becomes aware of facts that justify suspicion and identifies the person concerned, it must initiate proceedings without

31 | Frumarová, Pouperová & Škurek 2021, 427–428.
32 | Guide to Act No. 250/2016 Sb. on Liability for Offences and Proceedings Concerning Them 2022.
33 | See § 42 of the Administrative Procedure Code.
34 | All amounts originally stated in CZK have been converted into EUR using the exchange rate applicable at the time of writing (1 EUR ≈ 24.25 CZK). The converted figures are rounded and are provided for illustrative purposes only.
35 | 'Appearance' refers to the compelled transport of a person to the competent authority when that person has failed to appear upon summons without a valid excuse or sufficient justification.
36 | See § 137(4) of the Act on Liability for Offences.
37 | See, for example, the judgments of the Supreme Administrative Court of January 22, 2009, ref. no. 1 As 96/2008-115 (no. 1856/2009 Sb. NSS); June 21, 2007, ref. no. 1 As 16/2007-106; and February 26, 2014, ref. no. 3 As 80/2013-18.
38 | For example, the suspect may not be prosecuted due to legal impediments, or if a final decision has already been rendered in the matter.
39 | See § 76 of the Act on Liability for Offences.
40 | Prášková 2022, 422.
41 | See § 78 of the Act on Liability for Offences.
42 | Fiala et al. 2021, 159.

undue delay, generally within 30 days.[43] However, there is no legal entitlement to initiate proceedings for an administrative offence, as there is no public subjective right to require an administrative authority to act *ex officio*.[44]

Proceedings for an offence are initiated by delivering a notice of initiation of proceedings to the suspect or by verbally announcing such notice. Unlike criminal proceedings, the notice of initiation of offence proceedings does not take the form of a formal resolution, and therefore it cannot be challenged by legal remedies.[45] The notice must contain a sufficiently specific description of the alleged act in order to prevent confusion with other conduct and to allow the application of procedural obstacles such as *lis pendens* and *res judicata*. Absolute identity between the initial description of the act and the final decision is not required, as the factual circumstances may be clarified during the proceedings.[46] The principle of *lis pendens* prevents parallel proceedings concerning the same act against the same person,[47] while *res judicata* precludes the renewed prosecution of a matter that has already been finally decided. If such obstacles are identified, the administrative authority must either refrain from initiating proceedings or discontinue them.[48]

Where the facts indicate that the act may constitute a criminal offence, the administrative authority must refer the matter to the competent criminal justice authority. Such a referral results in the discontinuation of the administrative proceedings, but it does not prevent the initiation of administrative proceedings if criminal liability is ultimately excluded.[49] A similar procedural approach applies to criminal proceedings. If the criminal authorities conclude that the act does not constitute a criminal offence, the case may be referred to the competent administrative authority.[50] However, referring the case after the charges have been communicated creates a res judicata obstacle, and renewed prosecution for the same

43 | This deadline is provided for in § 80(2) of the Administrative Procedure Code.
44 | See, for example, the Constitutional Court's resolution of January 15, 2019, ref. no. I. ÚS 4145/18, or the resolution of June 26, 2001, ref. no. II. ÚS 345/01.
45 | Prášková 2022, 429.
46 | See, for example, the judgments of the Supreme Administrative Court of June 8, 2005, ref. no. 3 As 51/2004-72; July 28, 2010, ref. no. 5 Afs 89/2009-120; and October 5, 2011, ref. no. 1 As 110/2011-74.
47 | See § 77(1) of the Act on Liability for Offences.
48 | According to Section 77(2) of the Act on Liability for Offences, a final decision is a decision establishing that the act did not occur, that the accused did not commit it, that the accused could not be proven to have committed the act, or that the act constitutes a criminal offence, the same offence, or is not an offence. This definition also encompasses decisions on the conditional suspension of criminal proceedings, the suspension of proceedings based on an approved settlement, the conditional postponement of filing a motion for punishment, or the withdrawal of criminal proceedings against a juvenile.
49 | Jemelka 2025, 513–519.
50 | See § 159a of Act No. 141/1961 Sb., the Criminal Procedure Code. Submission to the competent administrative authority serves as a stimulus and may be followed by a notice of the commencement of proceedings.

act is possible only if that decision is overturned through extraordinary remedies.[51] The referral simultaneously initiates administrative proceedings, after which the administrative authority assesses liability and, where appropriate, imposes a sanction.

In cases specified by law,[52] proceedings may require the consent of the person directly affected by the offence. If such consent is not granted, the authority must refrain from initiating the proceedings or must discontinue them.[53]

Proceedings concerning an offence may be initiated either by a notice of the initiation of proceedings (in writing or by announcement) or by issuing a so-called order. An order serves as a summary procedural instrument and may constitute the first procedural act, thereby simultaneously initiating the proceedings without prior notification.[54] It is typically used in straightforward cases, including those handled by public guards in environmental protection (e.g. forest or fishing guards). The order is issued in a summary proceeding and must meet general formal requirements,[55] and include, *inter alia*, a description and legal classification of the act.[56]

Another form of summary proceedings for an offence is an administrative order on the scene, in which the administrative authority, immediately after sufficiently establishing the facts of the case, issues a so-called administrative block. In such cases, once the facts are sufficiently established, the decision is issued immediately, and its notification, legal effect, enforceability, and payment of the fine occur simultaneously. This form of handling has a preventive effect and is advantageous for the accused, as the fine is limited,[57] and the matter is resolved swiftly with reduced procedural formalities. The issuance of an administrative block creates *res judicata* and excludes re-prosecution. Once the administrative block has been issued and signed by the accused, it is no longer possible to stop the proceedings.[58] It may be imposed only if the facts are reliably established and the accused is present and consents to this form of resolution; otherwise, standard proceedings must be conducted.[59]

51 | Such extraordinary remedies include appeal proceedings (where the case was decided in the main hearing), proceedings concerning a complaint for violation of the law, and proceedings concerning the authorisation of a retrial; see Šámal et al. 2013, 493–517.
52 | For example, under Act No. 251/2016 Sb., on Certain Offences, these include offences of bodily harm (where the offence is committed by a natural person) and offences consisting of the intentional disruption of civil coexistence, such as threats of bodily harm, false accusations of an offence, malicious conduct, or other gross misconduct.
53 | See § 86(1)(m) of the Act on Liability for Offences.
54 | Prášková 2020, 122.
55 | The general requirements of a decision are the operative part, the statement of reasons, and instructions to the parties (§ 68 of the Administrative Procedure Code).
56 | See § 93 of the Act on Liability for Offences.
57 | A fine of up to 10,000 CZK (approx. 412 EUR) may be imposed by an order on the spot.
58 | See § 92 of the Act on Liability for Offences.
59 | Prášková 2022, 512–518.

3. Procedural rights of the accused

Procedural guarantees in offence proceedings serve to protect individuals and legal entities from the arbitrary or disproportionate exercise of public power. Given the asymmetrical relationship between the administrative authority and the accused, these safeguards are essential to ensure fairness, predictability, and reviewability of decision-making. A fundamental guarantee is the principle of transparency and predictability. The accused must be informed, in a timely and comprehensible manner, of the nature of the accusation, the legal basis of the proceedings, and the evidence gathered. Transparent proceedings allow the accused to prepare their defence and respond to factual allegations and legal assessments.[60] The principle of predictability requires administrative authorities to avoid unjustified differences in factually identical or similar cases by ensuring legal certainty through consistent decision-making, which may be departed from only for justified reasons.[61] Closely linked to this principle is the requirement of equality of arms. The accused must be given a genuine opportunity to present arguments and evidence under conditions that do not place them at a substantial disadvantage. The administrative authority may not give preference to evidence obtained *ex officio* while disregarding evidence proposed by the accused.[62] Decisions must be properly reasoned, including an explanation of how the authority evaluated the evidence and addressed the objections raised. The principle of two-stage (two-instance) administrative proceedings can also be regarded as a procedural guarantee. Its general purpose is to achieve a devolutive effect, i.e. for the matter to be reviewed by a higher-level administrative authority at the initiative of the lower-level authority, thereby strengthening objectivity and legality.[63] The presumption of innocence applies fully in offence proceedings. The burden of proof lies with the administrative authority, which must establish the facts beyond a reasonable doubt and by lawful means. The accused is not obliged to prove innocence and may not be compelled to confess or provide self-incriminating statements. No adverse consequences may be inferred from silence.[64] The rule of *in dubio pro reo* (when in doubt, in favour of the accused) implies that unproven guilt has the same effect as proven innocence.[65]

60 | Černín 2019, 137.
61 | However, the principle of legitimate expectations does not imply that decisions are immutable, as it is always necessary to seek an appropriate and proportionate solution, which may also justify a change in established practice. Skulová et al. 2020, 71.
62 | See Constitutional Court ruling of January 19, 2010, ref. no. Pl. ÚS 16/09.
63 | Skulová et al. 2020, 81–90.
64 | Prášková 2017a, 37–41.
65 | Doubts concerning guilt must relate only to questions of fact, not to questions of law.

3.1. The person accused of an offence

A substantive legal relationship between the state and the perpetrator arises at the moment the offence is committed. In contrast, a procedural relationship arises once proceedings are initiated against a specific person, who thereby acquires the status of the accused.[66] The accused is the central participant in offence proceedings. As mentioned above, the perpetrator of the offence may be a natural person,[67] a self-employed person,[68] or a legal entity.[69] Juveniles (persons aged between 15 and 18 at the time of when the act was committed)[70] constitute a specific category, while persons under 15 are not liable under the Act on Liability for Offences.[71] A person becomes an accused when the administrative authority takes the first procedural step against them, typically by delivering a notice of the initiation of proceedings.[72] This moment is decisive for the application of procedural rights, including the right to defence, access to the file, and the right to comment on the evidence. In a substantive legal relationship, the party is the perpetrator of the offence; in a procedural relationship, the party may also be an individual who did not commit the act but is subject to offence proceedings on suspicion of having committed it. Offence proceedings may also be conducted against a person for whom, for example, circumstances excluding liability exist. A person accused of an offence has the general rights of a party to the proceedings (e.g. the right to propose evidence and make submissions, express their opinion, inspect the file and make extracts from it, and the right to comment on the basis for the decision). In addition, however, they also have specific rights, and some general rights and obligations may be modified. The Act on Liability for Offences, the International Covenant on Civil and Political Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms confer specific rights on persons accused of offences, in particular the right to be informed promptly, and in a language they understand, of the nature and cause of the accusation against them; the right to be informed of their rights; the right to be present at the hearing; the right to adequate time and facilities for the preparation of their defence; the right to defend themselves in person or through legal assistance of their own choosing or, if they do not have sufficient means to pay for legal assistance, to be provided with it free of charge when the interests of justice so require; the right to examine witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them; and the right to be presumed

66 | Prášková 2022, 344.
67 | See § 13 et seq. of the Act on Liability for Offences.
68 | See § 22 et seq. of the Act on Liability for Offences.
69 | See § 20 et seq. of the Act on Liability for Offences.
70 | See § 55 of the Act on Liability for Offences.
71 | See § 18 of the Act on Liability for Offences.
72 | See § 69(1) of the Act on Liability for Offences.

innocent until proven guilty according to law (the principle of presumption of innocence), including the right not to incriminate themselves. These rights reflect the minimum standard of a fair trial in administrative penalty proceedings.[73]

Special problems arise where a legal entity is accused. Representation must comply with general procedural rules, and persons whose interests are in conflict with those of the legal entity cannot act on its behalf.[74] Many procedural questions arise in the application of concurrent liability for an offence committed by a legal entity and an offence committed by a natural person. In such a case, the accused natural person cannot also act as a person representing the legal entity in the proceedings.[75]

3.2. Principle of proportionality

The principle of proportionality requires that administrative penalties correspond to the nature and severity of the offence and to the circumstances of the offender. The basic criteria are especially the circumstances and the way the offence was committed, as well as the significance and scope of the protected interest.[76]

The principle of proportionality is closely related to the principle of individualisation of administrative penalties, which requires that the type and severity of the administrative penalty imposed correspond to the specific circumstances of the offence committed and the person who committed it. This requirement is reflected in the Act on Liability for Offences through provisions specifying the criteria for selecting the type and severity of the penalty,[77] a demonstrative list of mitigating and aggravating circumstances,[78] and the possibility of applying alternatives to punishment. The administrative authority must not proceed arbitrarily when individualising an administrative penalty, but must base its decision on legal considerations, established administrative practice, case law, and its own experience.[79]

4. Review of decisions on offences

The system of remedies in offence proceedings reflects the principle of two-instance administrative decision-making and ensures the review of legality and correctness. Czech law distinguishes between ordinary and extraordinary remedies. Ordinary remedies are available before a decision becomes final, whereas

73 | Prášková 2022, 368–370.
74 | Grygar 2020, 41.
75 | Prášková 2022, 402–403.
76 | See § 38 of the Act on Liability for Offences.
77 | See § 37 and § 38 of the Act on Liability for Offences.
78 | See § 39 and § 40 of the Act on Liability for Offences.
79 | Prášková 2022, 67–68.

extraordinary remedies apply to final decisions. When applying extraordinary remedies, it is generally irrelevant whether an ordinary remedy has been used.[80]

Ordinary remedies against a decision on an administrative offence include an appeal and, in the case of summary proceedings, an opposition to the order. Extraordinary remedies include review proceedings and the reopening of proceedings.

4.1. Ordinary remedies

The proper remedy against an order is an opposition to the order. The timely filing of an opposition (within an eight-day period) annuls the order *ex lege* and converts the proceedings into standard proceedings; if no opposition is filed within the statutory period, the order becomes final.[81] The accused may appeal against the decision on the offence in its entirety, i.e. they may challenge all statements in the contested decision and object to procedural defects that preceded the decision (within 15 days of notification of the decision on the offence).[82] Until the Act on Liability for Offences entered into force, the admissibility of novelties in appeal proceedings was disputed. The administrative doctrine and case law have since confirmed that, given the punitive nature of offence proceedings, the prohibition of novelties does not apply.[83] The Act now expressly allows new facts and evidence to be submitted on appeal.[84] A timely and admissible appeal against a decision on an offence has a suspensive effect, which cannot be excluded.[85] The appellate authority conducts a full review of the contested decision, including all findings, all persons concerned, and the preceding proceedings.[86] The Act on Liability for Offences also expressly regulates the principle of *beneficia cohaesionis* (benefits arising from context), requiring that a favourable appellate decision extend to other parties where the same grounds apply.[87] Logically, this principle cannot be applied in the case of an opposition to an order, as filing an opposition annuls the order and results in the continuation of the proceedings.[88]

Another important safeguard is the prohibition of *reformatio in peius*. If appeal proceedings are conducted solely in favour of the accused, their position may not be worsened.[89] This protection does not apply where another party appeals to

80 | Skulová et al. 2020, 286–287.
81 | Prášková 2022, 510–512.
82 | See § 83(1) of the Administrative Procedure Code.
83 | See the judgments of the Supreme Administrative Court of January 22, 2009, ref. no. 1 As 96/2008-115 (no. 1856/2009 Sb. NSS); September 23, 2011, ref. no. 8 As 19/2011-94; and November 27, 2012, ref. no. 1 As 136/2012-23.
84 | See § 97(1) of the Act on Liability for Offences.
85 | Jelínek et al. 2021, 662.
86 | Pipek 1998, 32.
87 | See § 98(3) of the Act on Liability for Offences.
88 | Prášková 2022, 520–528.
89 | See § 98(2) of the Act on Liability for Offences.

the detriment of the accused. Mitigating and aggravating penalties of different types does not *a priori* violate the principle of the prohibition of *reformatio in peius*. However, the penalty imposed, or the aggregate of penalties, must not be more severe in its entirety than the penalty originally imposed.[90] The principle also applies after an opposition to an order, when no other type of administrative penalty may be imposed on the accused except for a reprimand or a higher administrative penalty than that imposed by the order.[91] If the administrative appellate authority finds that the administrative penalty is in direct conflict with the law or is clearly incorrect in favour of the accused, it will revoke the decision as a whole and return the case to the first-instance administrative authority for reconsideration. It should be noted that the prohibition of changes for the worse is regulated by the Act on Liability for Offences only for proceedings before the administrative appellate authority and does not impose any restrictions on the procedure and decision of the first-instance authority after the decision has been overturned in appeal proceedings. The first-instance administrative authority may therefore impose a more severe penalty in its new decision. However, the accused may again appeal against the new decision on the offence.[92]

4.2. Extraordinary remedies

An extraordinary remedy is review proceedings, which is regulated by the Act on Liability for Offences and applies in cases where a final decision has already been made on the act and it subsequently becomes apparent that the act is likely to constitute a criminal offence,[93] or where it is found that a criminal justice authority has finally decided the same act in such a way that the act did not occur, was not committed by the accused, the commission of the act by the accused could not be proven, or that the act constitutes a criminal offence. Review proceedings may also be initiated where criminal prosecution was conditionally suspended, criminal proceedings were discontinued on the basis of an approved settlement, the filing of a motion for punishment was conditionally postponed, or criminal proceedings against a juvenile were withdrawn. In the first case, the purpose of the administrative authority's decision is merely to remove the obstacle created by a matter previously decided with finality and to enable a decision on the act as a criminal offence.[94] The second option addresses situations in which the same act has been punished twice. As a result of the subsidiarity of penalties for offences

90 | Prášková 2022, 528–530.
91 | § 90(3) of the Act on Liability for Offences.
92 | Prášková 2022, 537.
93 | As mentioned above, a final decision on an offence prevents criminal proceedings from being brought.
94 | See, for example, the judgment of the Regional Court in Prague of February 10, 2021, ref. no. 44 A 58/2019-50.

vis-à-vis criminal offences, it is necessary to revoke a later decision of an administrative authority on the offence. This solution is expressly provided for in the Act on Liability for Offences and serves to prevent conflicts with the principle of the primacy of criminal penalties and the principle of *ne bis in idem* (i.e. the prohibition of double punishment for the same offence).[95]

Extraordinary remedies also include the reopening of proceedings, which is governed by the general provisions of the Administrative Procedure Code. Reopening of proceedings allows the administrative authority to overcome the *res judicata* obstacle and decide the matter again. Proceedings may be reopened if new facts or evidence emerge that existed at the time of the original decision but could not have been invoked, or if the evidence used is later found to have been false.[96] Proceedings may also be reopened if the decision that formed the basis for the challenged decision has been revoked or amended.[97] In both cases, the condition is that the facts, evidence, or decision forming the basis for the original decision, could lead to a different resolution of the issue that was the subject of the original proceedings. Reopening of proceedings cannot be applied if the participant could have objected to the facts in question during appeal proceedings, or if they became aware of them at a time when they had the opportunity to use available remedies.[98] The purpose of reopening proceedings is to examine whether the legal conditions for reopening are met. The decision to allow reopening (whether positive or negative) is of a first-instance nature and may be appealed by means of an ordinary remedy (appeal).[99] No special motion or proposal is required for the new proceedings; the administrative authority must conduct new proceedings based on the legal force of the decision allowing the reopening.

The possibility of reviewing the legality of the administrative block is limited. By signing the administrative block, the administrative order on the scene becomes a final and enforceable decision, and no objection or appeal may be lodged against it. However, review proceedings are not excluded and must be initiated within six months of the administrative block becoming final, i.e. from the date of signing the administrative block.[100] The possibility of reopening proceedings after the issuance of the administrative block has been inferred from the case law of the Supreme Administrative Court, which stated that it is only possible if the applicant did not consent to the imposition of a fine in the administrative order on the scene (e.g. in cases of alleged forgery of a signature or confusion regarding the identity of the person accused of the offence against the administration).[101]

95 | See § 100(1) of the Act on Liability for Offences.
96 | See § 100(1)(a) of the Administrative Procedure Code.
97 | See § 100(1)(b) of the Administrative Procedure Code.
98 | See § 100(2) of the Administrative Procedure Code.
99 | See § 100(6) of the Administrative Procedure Code.
100 | See § 101 of the Act on Liability for Offences.
101 | Prášková 2022, 518–519.

The filing of appeals, whether ordinary or extraordinary, is not subject to fees under Czech law; therefore, the Czech system ensures the accessibility of appeals.

5. Enforcement of administrative decisions

Enforcement (or compulsory enforcement) of obligations imposed in administrative proceedings that have not been voluntarily fulfilled within the specified time limit is referred to in Czech law as administrative enforcement. Administrative enforcement is a fundamental and indispensable component of public administration and represents the final stage of the administrative procedure. Without enforcement mechanisms, administrative decisions would remain merely declaratory. It is through administrative enforcement that one of the conceptual features of law is clearly manifested, namely its enforceability by the state coercion in the event of non-compliance. Administrative enforcement is usually carried out through so-called factual acts. A prerequisite for any administrative enforcement is always the existence of a so-called enforcement title. In administrative proceedings concerning an offence, the enforcement order constitutes an enforceable administrative decision. The enforcement order will usually be final, but it must always be enforceable.[102] Therefore, if the obligated party does not voluntarily fulfil the obligation imposed by the enforcement order within the specified period, administrative enforcement is appropriate. The Administrative Procedure Code allows the administrative authority that issued the decision on the offence – or the entitled party under the enforcement order – to apply to the court at their discretion for an order to execute enforcement,[103] or to request the involvement of a court bailiff.[104] The same entities are actively entitled, if administrative enforcement is chosen, to enforce the enforcement order through the administrative enforcement authority.[105] In the case of non-monetary enforcement, the enforcement authority is the administrative authority that issued the decision on the offence; in the case of monetary enforcement, the enforcement authority is the general tax administrator (customs office). Administrative enforcement of monetary payments is not regulated by the Administrative Procedure Code or the Act on Liability for Offences. Therefore, the procedure for tax administration applies

102 | The legal force of an administrative decision means that the decision can no longer be changed or revoked through ordinary legal remedies. The enforceability of an administrative decision means that a decision imposing an obligation to perform may be enforced by state authority.
103 | See Act No. 99/1963 Sb., the Code of Civil Procedure.
104 | See Act No. 120/2001 Sb., the Enforcement Code.
105 | While enforcement of an enforcement order by an entitled party constitutes their subjective right, enforcement by an administrative authority is a legal obligation.

to the enforcement, collection, and recording of monetary payments, primarily governed by Act No. 280/2009 Sb., the Tax Code. Tax enforcement is carried out by issuing an enforcement order and other legally prescribed methods, such as deductions from income, seizure of claims or property rights, or the sale of assets.[106] Non-monetary obligations are enforced under the Administrative Procedure Code. It should be noted that, in principle, non-monetary obligations can only be enforced against the obligated party.[107]

Deadlines play an important role. Once they expire, the right to enforce the fulfilment of a financial obligation is forfeited. The administrative authority may order enforcement no later than five years from the date on which the obligation should have been fulfilled voluntarily and may carry it out for a maximum of ten years from that date. After these deadlines have expired without result, the right to carry out administrative enforcement expires. Administrative enforcement itself is ordered by an enforcement order in the form of a resolution, which cannot be appealed. Enforcement to recover a non-monetary obligation may be carried out exclusively by: substitute performance, in the case of substitutable obligations (e.g. entrusting the performance to another person); direct enforcement, in the case of non-substitutable obligations (e.g., eviction from real estate, an apartment, or a building); or imposition of coercive fines, up to the amount of the costs of substitute performance or up to 100,000 CZK (approx. 4,120 EUR).[108] Administrative enforcement also involves enforcement costs, which are imposed on the accused by the decision of the enforcement authority and consist of a lump-sum payment[109] and reimbursement of actual expenses incurred in the course of enforcement. The debtor or another person may lodge objections against decisions or other acts of the enforcement authority that are not subject to appeal.[110] However, these objections cannot challenge the substantive correctness or legality of the enforcement order. The enforcement authority may assess whether the enforcement order was issued by the competent administrative authority and whether it is enforceable, a duty that the authority must perform even in the absence of objections. The enforcement authority decides on the objections, and the decision on such objections cannot be appealed.[111]

106 | Skulová et al. 2020, 347–348.
107 | Under certain circumstances, enforcement may also be ordered against another person. This applies, for example, if a non-monetary obligation has been transferred or assigned to that person (i.e. in the case of legal succession), or if the obligated person has died or ceased to exist after the enforcement order was issued; in such cases, the administrative authority may continue enforcement against the heir or their legal representative. In the event of the dissolution of a legal entity, the enforcement authority may continue enforcement against its legal successors.
108 | See § 129 of the Administrative Procedure Code.
109 | This is a lump sum of 2,000 CZK (approx. 82 EUR).
110 | See § 117 of the Administrative Procedure Code.
111 | Skulová et al. 2020, 348–354.

6. Challenges in the field of administrative procedural law

One of the main challenges in administrative procedural law is the efficiency of proceedings, as administrative proceedings are, by their nature, inherently burdened by procedural formalities and bureaucratic requirements. Compliance with numerous procedural rules (some of which were outlined in the previous chapters) can result in proceedings being perceived as unnecessarily complex and time-consuming. Although the principles of speed and economy of proceedings are intended to streamline the process, Czech administrative practice still relies heavily on time-consuming manual procedures.[112] Even in routine and repetitive matters – such as minor traffic offences detected by automated speed control systems, late payment penalties, or cases in which the authority merely verifies objectively ascertainable data from public registers – the administrative authority is required to conduct full proceedings and issue an individual decision. In such cases, the authority often does not exercise administrative discretion but simply applies a clear legal rule to a standardised factual situation. From the perspective of modernising public administration, it would therefore be appropriate to consider legislative changes enabling automated or algorithm-based decision-making mechanisms in strictly defined categories of cases where no discretionary assessment is involved. Properly regulated automation could increase procedural efficiency, reduce the administrative burden on officials, and enhance predictability and legal certainty for participants, provided that safeguards for review and human oversight are maintained.

Another challenge in administrative procedural law is the uniform imposition of sanctions across the various sectors regulated by administrative law. In the area of administrative punishment, it is always necessary to respect and take into account the specific characteristics of the individual fields or sectors of public administration in which liability is enforced. These specific characteristics are particularly evident in tort law, where the individual elements of offences correspond both to the subject matter of public administration in the given area and to the specific public interests that are protected and enforced there. The procedural aspects of individual liability systems are generally the most similar.[113] The hearing of an offence – regardless of the branch of law concerned – is always an administrative proceeding that must meet certain basic standards (see above). These requirements and established practice ensure that public authorities conduct offence proceedings in a manner that respects the right to a fair trial. The uniform application of sanctions within individual regulated areas should be strictly

112 | Česko, funguj! 2025.
113 | Boháč et al. 2017, 375–376.

respected, especially when based on the principles of equality among participants, proportionality, legitimate expectations, and the prohibition of arbitrariness.

Defining a clear boundary between a criminal offence and an administrative offence is another significant challenge in administrative procedural law. As mentioned above, an unlawful act is considered an administrative offence only if it does not constitute a criminal offence. If an unlawful act fulfils the characteristics of both a criminal offence and an administrative offence, liability for the criminal offence takes precedence, while liability for the administrative offence remains subsidiary. The subsidiarity of administrative offences to criminal offences is thus preserved, but some concepts – such as the notion of 'socially harmful' – can create interpretative difficulties. In certain cases, the distinction between a criminal offence and an administrative offence is straightforward, for example, based on the amount of damage caused; in other cases, however, the decision may be much more complex. Regarding cooperation between administrative authorities and law enforcement agencies, the law establishes the obligations of the competent authorities for referring cases when a criminal offence or an administrative offence is detected, so that the matter is considered by the appropriate body. Nevertheless, case law shows that practical problems still arise, such as violations of the *ne bis in idem* principle when the same perpetrator is punished twice for the same act.[114] It is therefore necessary to strengthen cooperation between administrative and criminal authorities through clearly defined procedural rules, effective information exchange, and interdepartmental agreements. Such measures would not only prevent duplication of proceedings but also ensure that administrative and criminal penalties are applied fairly, proportionately, and in accordance with the principle of legality.

7. Prospects and conclusions

Administrative procedural law is a key instrument for ensuring the proper exercise of public administration and provides the fundamental framework within which substantive administrative law is implemented. In the area of offences, it plays a crucial role in detecting, investigating, and prosecuting unlawful conduct, while always emphasizing the principle of legality and respect for the rights of the accused. The recent legislation, which has unified the concept of an offence, has brought greater clarity and strengthened legal certainty. At the same time, the application of substantive corrective measures enables a fair distinction between minor cases and acts that are truly socially harmful.

114 | See, for example, the judgments of the Supreme Administrative Court of June 3, 2015, ref. no. 6 As 106/2014-25; January 24, 2014, ref. no. 7 As 34/2013-29; or the resolution of the Supreme Court of September 19, 2018, ref. no. 5 Tdo 1534/2017-50.

Proceedings concerning administrative offences are distinctive in that they are conducted in accordance with the principle of investigation, making it essential to emphasise procedural safeguards that balance the asymmetrical relationship between the accused and the administrative authority. Ensuring the right to defence, the presumption of innocence, proportionality in the imposition of penalties, and transparency and predictability in decision-making are indispensable elements for guaranteeing a fair trial. Equally important is the system of ordinary and extraordinary remedies, which ensures a two-instance system and allows for the review of decisions, thereby strengthening the control of the legality and objectivity of administrative penalties. Administrative procedural law thus not only protects individuals from the arbitrary exercise of public power but also enables effective enforcement of the public interest. It strikes a balance between the repression of rights and the protection of parties' rights in proceedings and represents an irreplaceable pillar of a democratic state governed by the rule of law.

In recent years, there have been efforts within the European Union to standardise criminal law, particularly in areas with cross-border implications or in harmonising the definitions of criminal offences and penalties, with a view to ensuring equal treatment of citizens and effective law enforcement across Member States. For example, the European Union Directive 2024/1203[115] sets minimum rules for defining environmental crimes and imposing penalties throughout the European Union, aiming to improve environmental protection and more effectively prevent and combat environmental crime. However, similar standardisation has not yet been evident in the field of administrative penalties. Individual regulatory areas – such as construction law, environmental law, and financial regulation – operate under different sanction regimes, and significant variability therefore remains in the application of administrative sanctions. At the same time, it is evident that Czech administrative procedural law already incorporates principles aligned with European standards, such as the prohibition of *reformatio in peius*, the prohibition of abuse of power, and the principle of legality.[116] These principles ensure that, despite differences between regulatory areas, a certain degree of predictability, equality, and procedural fairness is maintained, providing a foundation for future standardisation of decision-making across jurisdictions. In the author's view, it would be beneficial to standardise administrative penalties across jurisdictions, both within the framework of international cooperation among the V4 countries and potentially across the European Union. Such standardisation would promote equal treatment of participants in proceedings, ensure predictability and

115 | Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law, repealing Directives 2008/99/EC and 2009/123/EC.

116 | European Ombudsman, 2002.

proportionality of sanctions, and facilitate inter-state cooperation in addressing cross-border issues.[117]

With the advancement of artificial intelligence (AI) technologies to a high level of sophistication, it is both feasible and desirable to apply automation and AI in the field of administrative procedural law. Modern technologies can significantly streamline administrative decision-making. For example, automated systems can accelerate the processing of routine applications, verify the formal requirements of submissions, or pre-fill draft decisions, while the final decision remains under the authority of the administrative body. Moreover, AI enables an analysis of large volumes of data, the identification of patterns, and the formulation of preliminary conclusions, thereby improving consistency in decision-making across jurisdictions and reducing the risk of subjective bias. Nevertheless, it is essential that technological tools complement rather than replace human decision-making, ensuring that transparency and human oversight remain integral to the final decision.

117 | See Uhri & Nemes 2024, 225–253.

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