

- 1. Administrative Procedural Law**
- 2. Legal Guarantees in Public Administration**
- 3. Ombudsman. Public Administration control.
Judicial Review**

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Introduction

Prepare your answer to the following questions:

1. Why do we have public administration? Is it good/bad thing, helps/is harmful, ...
2. What is (is there any) a connection between public administration and administrative law?
3. Do we need any procedural norms in administrative law? Who is the addressee?
4. Why is important to control public administration?

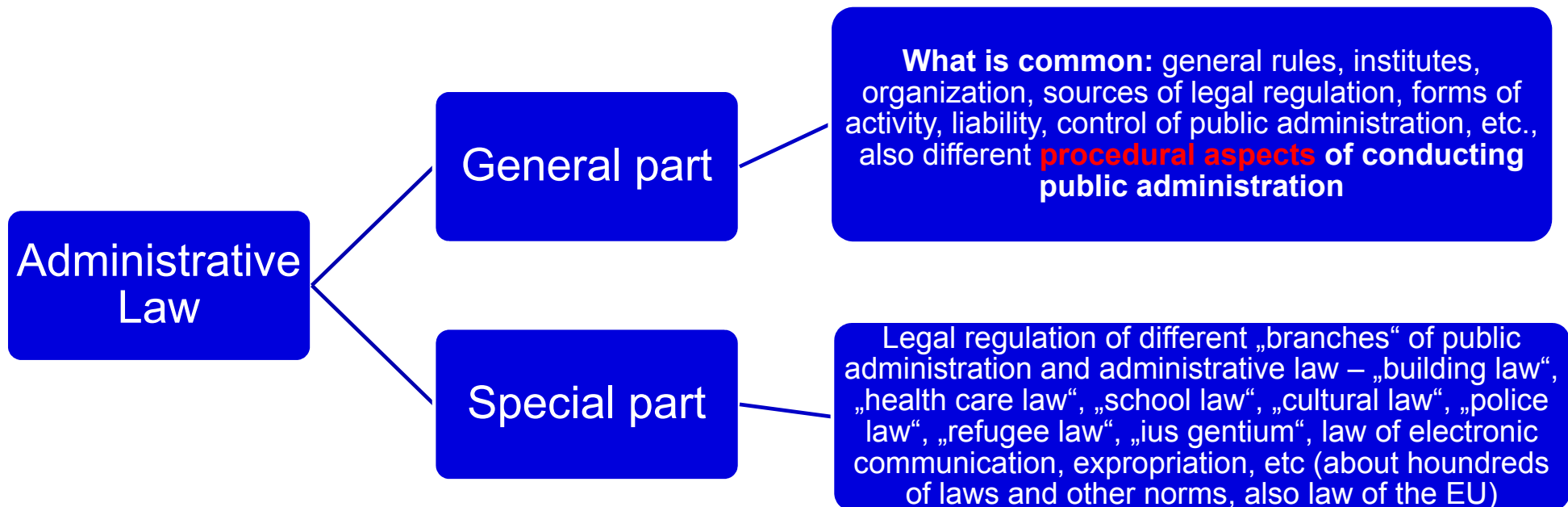
System of (Czech) Administrative Law

Administrative Law („Správní právo“)

- is the biggest (and also very important – yes? **Really**, it is!) **branch/part of law/legal system** (of each „legal“/“administrative“ state); part of **public law**
- **regulates relations in Public Administration** a) its **organization** (at different levels) and b) its **functions/activities**; public administration is **based on (intentional) activity**
 - ❖ its function in the society;
 - ❖ to gain public goals and
 - ❖ to protect public interest
- represents a possibility of using **public power**; protects **public interest**; examples of **superiority**

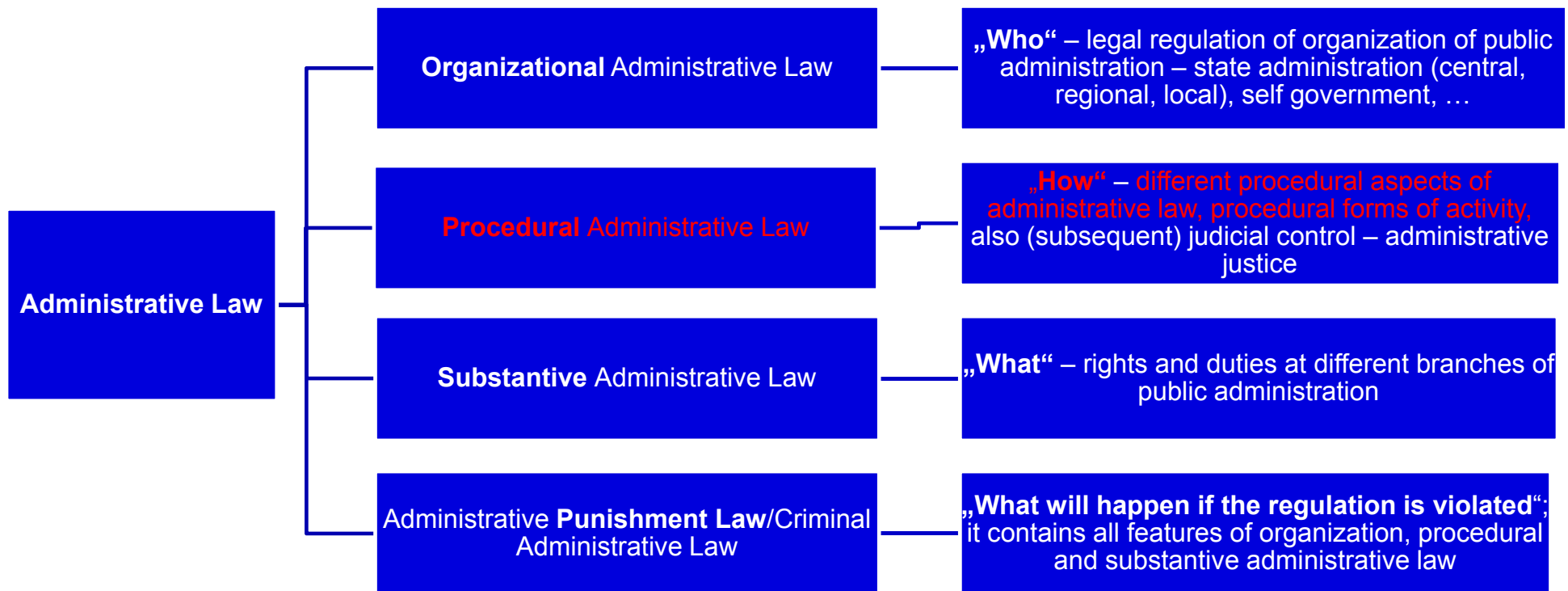
System of (Czech) Administrative Law

One possible division:



System of (Czech) Administrative Law

– Second possible division:



Administrative Procedural Law

- **Procedural part** of Administrative Law (different procedures that can be found in public administration) – **protection** of rights
- **Code of Administrative Procedure** (act nr. 500/2004 Coll.)
- **Code of Administrative Justice** (act nr. 150/2002 Coll.)

Legal Guarantess in Public Administration

- **Principle of legality** (Constitution, Charter of Fundamental Rights and Freedoms, Code of Administrative Procedure, ...)
- **Legal guarantees:** different measures that enables and ensures legality in public administration
 - 1. Control** (in public administration – **internal** and **external**), Code of Control (act nr. 255/2012 Coll.), external control by: courts, ombudsman, people (petition), independent administrative bodies, Parliament
 - 2. Right to information** (FOIA – act nr. 106/1999 Coll.)
 - 3. Control of administrative acts**
 - 4. Responsibility** (act. nr. 82/1998 Coll. for damages), **administrative offences** (act nr. 250/2016 Coll.)

...and now selected issues

1. In general...
2. Forms of activity and protection of rights
3. Remedies
4. Administrative Justice
5. ombudsman

System of Czech Public Administration

Art. 1 section 1 of act nr. 500/2004 Coll., Code of Administrative Procedure

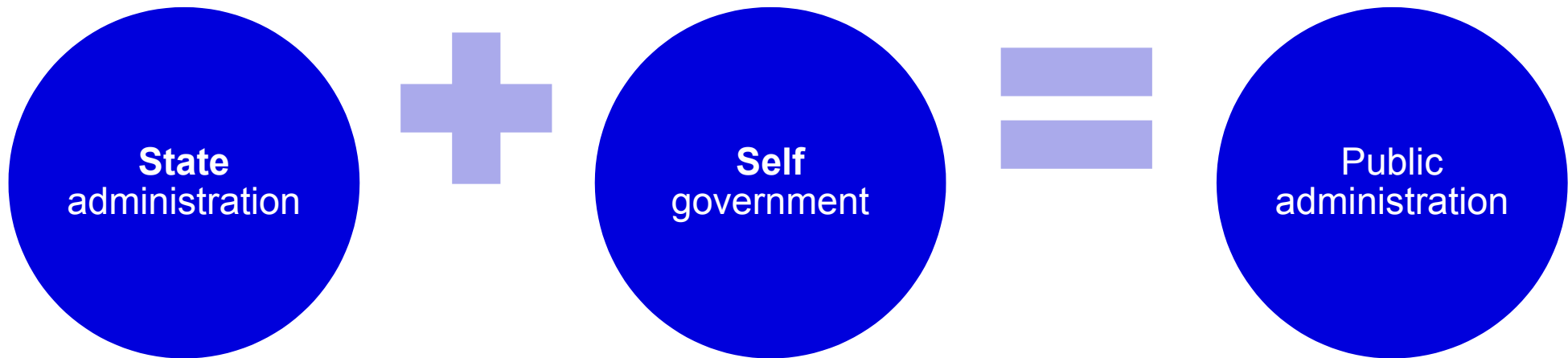
- „*Tento zákon upravuje postup orgánů moci výkonné, orgánů územních samosprávných celků a jiných orgánů, právnických a fyzických osob, pokud vykonávají působnost v oblasti veřejné správy (dále jen "správní orgán").*“
- „*This Act regulates the procedure of **executive bodies, bodies of territorial self-governing units and other bodies, legal and natural persons, if they exercise competence in the field of public administration** (hereinafter referred to as "**administrative body**").*“
- Public administration is a **system of different administrative bodies and its functions and forms**

System of Czech Public Administration

Art. 9 of act nr. **500/2004** Coll., Code of Administrative Procedure

- „*Správní řízení je postup **správního orgánu**, jehož účelem je vydání rozhodnutí, jímž se v určité věci zakládají, mění nebo ruší práva anebo povinnosti jmenovitě určené osoby nebo jímž se v určité věci prohlašuje, že taková osoba práva nebo povinnosti má anebo nemá.*“
- „*Administrative procedure is **procedure** performed by the **administrative body** aimed at issuing a **decision** establishing, modifying or abolishing the **rights or obligations** of a **nominated person** in a particular case or declaring that a person has or does not have rights or obligations in a particular case.*“

System of Czech Public Administration



- **State administration** belongs to **the state**; **important** part of public administration, different tasks of the state are performed by the state and its bodies („**direct state administration**“), but also „indirectly“ by other bodies that are not part of the state administration („**indirect/transferred state administration**“) – under a law are bodies of territorial units entitled (and also obliged) to perform state administration instead of the state and its bodies („**mixed model of state administration**“) – specific „representation“ – they perform the state administration, but in origin, are not part of this body
- **Self government** includes **local, regional** and also „**university/interest and professional**“ self-government

How we can know if the state is democratic and legal?

- Adolf Merkl (Austrian scientist) wrote in the 30's that such state recognizes:
 1. Principle of **legality, rule of law**
 2. Existence of **self – government** and
 3. Judicial control of public administration – **administrative justice**

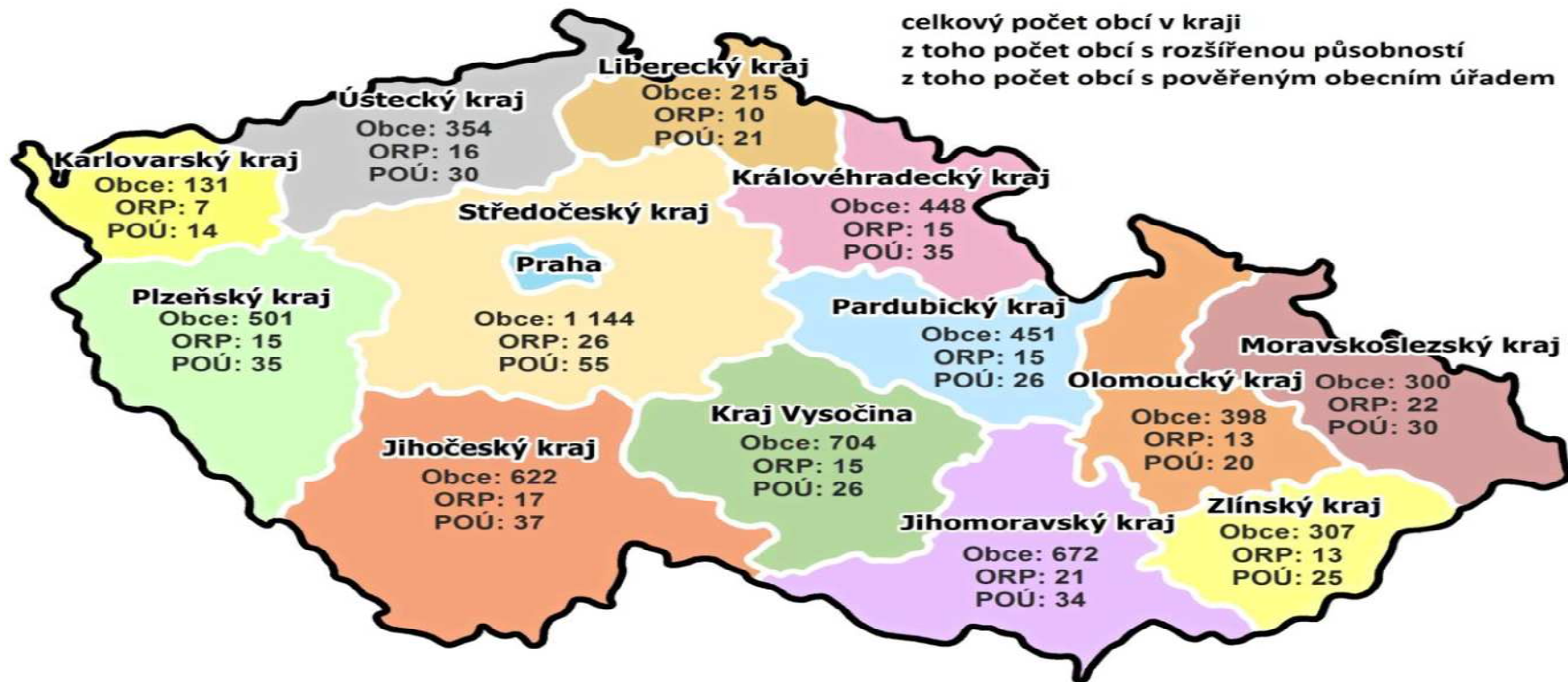
Example: In the Czechoslovakia these roots were destroyed from 1948 to 1989

So, thanks to this heritage, we should be aware and be careful, if someone will try to limit it (due also „economic“ reasons)

System of Czech Public Administration

- **Self government** (based in Constitution, European Charter of Local Government) – is protected, „prepares the politicians for the national/state level“
- **14** regions (all perform also state administration)
- **+/- 6254** municipalites (cca 30 cities with specific regime – division between part of such cities and the city itself); all of them perform (of course) self government and the state administration (but in **different scope** – **three categories of the municipalites**, only for the tasks of **STATE** administration)

System of Czech Public Administration



System of Czech Public Administration

Government and ministries (14) (and **other central administrative bodies – 17**: 1. Czech Statistical Office, 2. Czech Office for Surveying, Mapping and Cadastre, 3. Czech Mining Authority, 4. Industrial Property Office, 5. Office for the Protection of Competition, 6. Administration of State Material Reserves, 7. State Office for Nuclear Safety, 8. National Security Authority, 9. Energy Regulatory Office, 10. Office of the Government of the Czech Republic, 11. Czech Telecommunication Office, 12. Office for Personal Data Protection, 13. The Council for Radio and Television Broadcasting, 14. Office for the Supervision of the Management of Political Parties and Political Movements; 15. Office for Access to Transport Infrastructure, 16. National Office for Cyber and Information Security, 17. National Sports Agency and „independent“ bodies as Czech National Bank or Supreme Control Office

State administrative bodies with the **whole state/national scope**: National Heritage Institute, Czech Social Security Administration, Labor Office, State Labor Inspection Office, Civil Aviation Office, General Financial Directorate, Specialized Tax Office, Railway Authority, Office for International Legal Protection of Children, State Institute for Drug Control, National Accreditation Office

Local Specialized bodies: Tax offices (14), regional sanitary stations (14), regional military headquarters (14), district social security administration (84), district mining offices (8), cadastral offices, inspectorates (84)

Indirect state administration performed by the bodies of regions and municipalities

System of Czech Public Administration

- Art. 1 section 1 of law nr. **500/2004** Coll., Code of Administrative Procedure
- „*This Act regulates the procedure of **executive bodies, bodies of territorial self-governing units and other bodies, legal and natural persons, if they exercise competence in the field of public administration (hereinafter referred to as "**administrative body**")***“.
- 1. Executive body** – ministries and central administrative bodies - **act nr. 2/1969 Coll.** (the procedural result is: **remonstrance**)
 - 2. Bodies of territorial self-government units** – **14** regional offices and cca **6254** municipalities offices (but not only the offices)
 - 3. Other bodies**
 - 4. Legal and natural persons** – universities (disciplinary committee), chamber of attorneys, chamber of „doctors“, etc. (about 10 chambers with the right to self government)

Activity of Public Administration

- Public administration as activity of administrative bodies is represented by the **system of forms** („*formy činnosti*“, „*formy działania*“, „*Handlungsformen*“)
- **Variety of forms** – a lot of task and duties of public administration in the 21st century
- In general are mostly regulated (by the procedural aspects) by the act nr. **500/2004 Coll. – Code of Administrative Procedure (CAP)** – the principle of legality

Activity of Public Administration

- Form(s) of activity:
 - 1) **Outcome/result** of public administration activity; several forms (due to complexity of public tasks and goals)
 - 2) Shows in which ways/forms is the public administration realized and applicated
 - 3) Presents **scope of administrative and (later) judicial protection.**
- **Normative approach to the forms:** which forms has the public administration permitted/allowed and „prescribed“ to fulfill its tasks (principle of legality), helps the public administration
- **Instrumental approach:** the system of forms protects the individual rights, another than prescribed form can´t be applied/used
- **If we think about simplification we must not forget that people would have right to defense against illegal administrative acts**

Forms of Public Administration Activity in the Czech Republic and Protection of the Rights of Individuals

- **System of forms** of public administration activity
- **Approaches** to the system of forms
- Forms of public administration activity and **judicial protection**

Normative vs. instrumental approach to the forms of public administration activity

– Form(s) of activity:

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Activity of Public Administration

Forms of public administration activity		Where in the Code of Administrative Procedure (CAP) it is provided for/regulated	Form of protection under the CAP
Administrative act	normative administrative act	not provided for ; however, the CAP shall be applied at least in the scope of its principles contained in Part one (Sections 2 to 8 CAP)	no provision
	individual administrative act	1) administrative decisions – Parts two and three (Section 9 to 153 CAP) 2) so-called other acts – Part four (Sections 154 to 158 CAP)	Ad 1) remedial measures (ordinary and extraordinary, Sections 81 to 100 CAP) 2) interlocutory revision and the form of so-called review proceedings (Section 156 CAP)
	mixed administrative act	measure of a general nature – Part six (Sections 171 to 174 CAP)	form of so-called review procedure (Section 174 par. 1 CAP)
Public law contract		Part five (Sections 159 to 170 CAP)	form of so-called review procedure (Section 165 CAP)
Factual act and immediate intervention		no provision ; however, the CAP shall be applied at least in the scope of its principles contained in Part one (Sections 2 to 8 CAP)	no provision

General rules/principles of public administration activity

- In **Constitution** (act nr. 1/1993 Coll. – principle of legality, legal basis for the establishment of authorities, order of the government – government regulation), **Charter of Fundamental Rights and Freedoms** (nr. 2/1993 Coll.) – **right for a fair trial (art. 36 sec. 1) and judicial protection (art. 36 sec. 2)**
 - Art. 6 **European Convention on Protection of Rights and Freedoms** – is applicable also to the administrative procedure? – existence of judicial protection
 - Art. 2 – 8 **CAP** (principles of **good administration**): **legality**, proportionality, protection of good will, legitimate expectations, public service, alternative solutions, **speed and economy, minimalization of interventions**, equality, cooperation – binding for the administrative bodies
- Soft law: **Rec (2007) 7 on good governance**

General rules/principles of public administration activity

- Case law of the **administrative courts** (8 regional and Supreme Administrative Court) – also sources of principles, subsequent control



Legal regulation of administrative procedure

- In general is in the CAP (art. 1 sec. 2) „*This Act or its individual provisions shall apply unless a special Act provides otherwise.*“, so CAP:
- as **lex generalis** (about 300 laws in position of **lex specialis**), we can find **bigger or lower** „deviations“, special legal regulation (problems of knowledge)
- about **180 provisions**, in effect since **2006**
- can be **excluded** by lex specialis – art. 177 sec. 1 CAP (requirements for the lex specialis about the principles and content itselfs) – OK, but the **CAP shall apply in the scope of principles of good administration** (art. 2 – 8 CAP) – **so the CAP will apply, even it is excluded**
- **It is not possible to perform public administration and do not apply CAP**

Legal regulation of administrative procedure

- 1867 and 1876 in Austrian Empire – Code of Administrative Justice (Act Nr. **36/1876** Coll.) – this act was in effect (with some changes) till 1952!
- Act Nr. **3/1918** Coll. – Code of Administrative Justice; „only“ Supreme Administrative Court with the the cassation action/complaint (against administrative decision), but continuing Austrian procedural regulation
- **Lack of procedural norms** in the sphere of public administration – big place for the case law
- Adoption of the **Code of Administrative Procedure** (in 1928) was **strongly influenced by the case law** of the Austrian/Czechoslovakian (Supreme) Administrative Court

Legal regulation of administrative procedure

CAP in the Czech history:

1. **8/1928 Coll.** – 137 provisions, „only“ administrative procedure
2. **20/1955 Coll.** – 53 provisions, „only“ administrative procedure
3. **91/1960 Coll.** – just 36 provisions, „only“ administrative procedure
4. **Act. nr. 71/1967 Coll.** – 86 provisions, mostly administrative procedure, still in effect in Slovakia (common CAP for the CZ and SK)
5. **Act nr. 500/2004 Coll.** – 184 provisions, mostly administrative procedure (art. 9 – 153),

Shortening or lengthening of legal regulation as a measure, how to simplify administrative procedure?

Legal regulation of administrative procedure

Art. 9 of act nr. **500/2004** Coll., Code of Administrative Procedure

– „*Administrative procedure is **procedure** performed by **administrative body** aimed at issuing a **decision** establishing, modifying or abolishing the **rights or obligations** of a **nominated person** in a particular case or declaring that a person has or does not have rights or obligations in a particular case.*“

1. **Procedure** (based on cooperation with participants)
2. Performed by **administrative body** (has public power)
3. In the sphere of **public administration** (not all things are made by administrative bodies)
4. (Administrative) **decision** is product (and also under the **control of courts**)
5. Twice concrete – **rights and duties** and **addressee**

– **Provisions 9 – 153 CAP**

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- is **one (not the only one)** of the procedural forms, that are regulated by/ can be found in CAP, **CAP ≠ administrative procedure**, but **CAP ≥ administrative procedure**
- is important **part of public administration** – the decision enables/permits/constitues **new right** (to study, to build, to do business, to drive, grant social benefit, authorozation, ...), but also **constitues duties** (to pay a fine); sometimes is the decision the first thing, sometimes it follows what happened (administrative offence)
- is performed by hundreds/thousands of **different administrative bodies** and in **different situations** (azylum, permission for foreigners, ...)
- some provisions are still the same, some of them differs (*lex specialis*) in **different cases/examples**

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- needs to have its **participants**, who have different rights and duties among the procedure; these are also **addressee of the final decision**
- If started, the only way how to terminate it is the **decision** (or **public law contract**), if not – **administrative silence/innactivity**
- Usually takes some **(reasonable) time**, but the participant wants to have decision immediately or „never“ (sanctions) – **different attitude of participants** (cooperation x obstacles)
- Can be **controled** by the superior administrative body and later by the administrative courts

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- is terminated by a **decision** and the decision is **issued in administrative proceedings**
- is a **legal relationship** (procedural nature, unequal position, superiority of the administrative body), **has entities** (administrative body and participants), **object** (why, for what purpose - issuing a decision on rights and obligations) **and content** (procedural rights and obligations)

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- the '**master** of the proceedings' is the competent administrative bod - the **participants** have the **right to propose and demand**... but they may not be
- complied with (but justify why – in reasoning)
- **time limit for issuing** a decision (Art. 71) x administrative silence (Art. 80), in some cases the time **limits initiating proceedings** and issuing decision/termination of proceedings
- **gaining of documents** from other (affected) administrative bodies, as well as the participants (may propose), **ascertaining the facts things**
- activities of the administrative body **before, during and after** the proceedings

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- **participants** - those whose rights or duties are to be decided (established, changed, canceled or confirmed)
- min. **1 participant**, special laws may **include a broader/narrower** definition,
- **in case of doubt** – is better to consider person as a participant (risk of „forgotten participants“)
- the responsibility for the **proper delimitation of the participants** lies with the administrative body, the need to check the circle of participants
- more than **30 participants** (**simplified procedure** Art. 144)

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

– **participants**

1. **main, strong or unforgettable participants** – Art. 27 sec. 1 CAP (persons whose rights or duties are **directly decided**)
2. **weaker participants** – Art. 27 sec. 2 CAP, those whose rights or duties can be **directly affected** by the decision (somehow this will have a negative effect on their legal sphere)
3. **participants under a special law** (lex specialis) – Art. 27 sec. 3 CAP
4. **the participant in case of doubt** – Art. 28

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

– **participants** and their rights

1. **make proposals/demands/objections * concentration**
2. **to comment, explain**
3. **to be familiarized with the documents before issuing a decision**, if not:
significant procedural error
4. Access to the files

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

- the proceedings are conducted by the relevant administrative body and in particular the so-called **authorized official person**
- **written form** is dominating, but also **oral hearings** (orally to the protocol)
- the **file** is established and maintained in each case – right to access to the files

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure: ways of delivering the documents

1. on site (vis-à-vis the present)
2. to **data box** or otherwise electronically (e-mail)
3. written (by post)
4. hybrid

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative procedure:

– **Pre - litigation** procedure

1. acceptance of **initiatives** for initiation of proceedings ex officio
2. **postponement** of the case
3. **explanation**
4. **provision** (ensurance) of evidence
5. **preliminary information**

– **initiation of proceedings**

upon **request** and **ex officio**

oral hearing

documents for issuing the decision

Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative decision:

1. Statement
2. Justifications/reasoning
3. Information about remedies

- It **follows the initiation** of the proceedings (application / notice of initiation) and the **subject of the proceedings** (it is not possible to decide on something else)
- **Specifying the rules** of conduct for a given case and circumstances (act of **application of law**)
- Creates decision-making **practice – binding in the future**

Czech Administrative Procedure from the perspective of general rules of proceedings

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Czech Administrative Procedure from the perspective of general rules of proceedings

Administrative decision:

- *the decision itself is only that part of it which is truly 'capable of curtailing its addressee's rights and which is manifested by the' power of law 'if the decision becomes final. In the operative part of the decision, the administrative authority authoritatively establishes, modifies, or cancels or declares authoritative subjective authority of the participant. (High Court in Prague, 13. 8. 1996, nr. 6 A 154/94)*
- **interim and partial decision, subject to binding opinion, order (, „document“**

Principle of Two Instances

- **Common principle** of the Administrative Law
- **not expressly stated** in the legislation – non written down exactly
- **X - Admitted** by the practice a jurisprudence
- **X - Existence of ordinary remedies** – their admissibility – existence of this principle
- **! - BUT** has **no nature as BASIC/FUNDAMENTAL principle**, only standard/normal principle
- **THEREFORE:**
 - 1. Absolute exclusion** of this principle
 - 2. Relative exclusion** of this principle

Principle of Two Instances

– **Absolute exclusion** of the principle

1. no ordinary remedies

2. legal force

- Independent administrative bodies (no superior body)

- No administrative review – due to the independence

3. Instead of administrative review – straight **judicial review**

– **Relative exclusion** of the principle

1. Remonstrance

– ? *Is it a **special, but independent ordinary remedy, or only a special type/kind of an administrative appeal?***

– **Whose decision are controlled** in remonstrance proceedings?

Who decides on remonstrance?

Remedies

WHY REMEDIES IN ADMINISTRATIVE PROCEDURE? NEED OF REMEDIES?

- Normative approach: how to **protect legality and public interests** in administrative procedure, to ensure legality of administrative acts itself (**law**)
- Instrumental approach: system of remedies that helps aggrieved parties (participants) against unlawful and unjust decisions (**right**)
- YES, we need them, but ... (is not so much remedial measures?
More remedies = more rights??? How to use this system ...)

Remedies

Are remedial measures in administrative procedure more „normative“ or „instrumental“?

- **Ordinary remedies** – more **instrumental**

(**Appeal** - Sec. 81 – 93 CAP, and/or **Remonstrance** - Sec. 152), **right to** administrative appeal, the decision is **not in legal force**, principle of **two instances**, condition for **access** to Administrative Justice

- **Extraordinary remedies** – more **normative**

(**Review procedure** – Sec. 94 – 99, and **Renewal procedure** – Sec. 100), more **ex officio**, scope of **legality** (q. iuris et facti) problems with **legal force**, problems with **time limits** and **concurrency** with Administrative Justice

Remonstrance

– Use by the aggrieved participants **against decision** that was made by the „**CAB**“ in the first instance/level

– „**CAB**“

central bodies (on the top of the hierarchy)

no superior bodies

preparation of the legislation

conceptual task, analysis, advices

ministries, other ...

Should or shouldn't the „CAB“ participate in the administrative decision making process and should or shouldn't make an individual decisions?

Remonstrance

- „CAB“ in the administrative proceedings
 - 1. Represents the second/final instance**
 - with accordance to the principle of two instances
 - final instance – final decision, end of the procedure
 - instrument for control
 - 2. Represents the first instance – the administrative proceedings begins at this stage/level**
 - In respect to the principle of two instance – **who will then decide in the second instance?**
 - No superior administrative body **REMONSTRANCE**

Remonstrance

- By the **head** of the „CAB“ who made first instance/level decision
- ? internal or external control?
- ? **Impartiality** – control of decision that was made by „his/her“ office, „his/her colleagues“, ...
- Legal requirement: **estabilishing** the „independent“ **remonstrance commitee**
- ! decision on remonstrance is made **by the head, not by the commitee!**
- Issues **not decision** on remonstrance, but „only“ **recommendation/advices**
- Recommendation is **not binding**, but in practice is mostly respected – **WHY?**
- **5 members**; „experts“
- ? **Who** is an expert? – no legal requirements
- Are appointed by the **head** of the „CAB“
- ? Are these „experts“ **impartial?**

Extraordinary remedies

1. problems with **legal force** (is relative or absolute?) **and rights**
 2. problems with **time limits**
 3. **concurrence** with Administrative Justice
 4. **purpose** of this measures
 5. the **need of legality** x **gained rights in good faith**
 6. **Ex officio** (initiative from parties)
- **Do we really need them? Can the society and Public Administration exist and function without them?**

Extraordinary remedies

- **Review procedure** – instrument of connectivity in CAP, is used in other procedural forms
- **Retroactivity in favor** – bound by the the date of issue, no later changes, even in favour ...
- **Is it effective?**

Administrative Justice in the Czech Republic

– „changes and expectations“ in Administrative Justice (not only) on the example of the Czech Republic

- 1) **Purpose** of the Administrative Justice and its **history** and **development**
- 2) **Today's situation** and legal regulation
- 3) Possible **changes and expectations** in future

<http://nssoud.cz/Uvod/art/1>

Administrative Justice in the Czech Republic

Why do we have the Administrative Justice?

- To **protect rights** of individuals and **thus** to **control state/public administration**
- **More protection or more control?**
- **Control as a result of protection** – Administrative Justice may control only such cases where the action was taken (no ex officio)
- Protection is **not possible in all cases**, but only in which the legal regulation **enables it** (reasons for actions are very wide)

Administrative Justice in the Czech Republic

- NSS (sp. zn. 8 As 47/2005, 1764/2009 Coll., NSS) Administrative Justice and „Code of Administrative Justice is by its nature a **„defensive,, act**. It is **not a "control" standard that would allow anyone** to initiate, by bringing an action in the administrative justice, to control any act of the public administration. It is only intended to **ensure legal protection in cases where public administration enters into the legal sphere** of natural or legal persons. The limitation criterion for prominence is the alleged interference with public subjective rights. **Not all the activity** (or any misconduct) of public administration **is subjected to judicial control**, but only when the activity of the administration **exceeds their public subjective rights.** "

Administrative Justice in the Czech Republic

- **External products** of Administrative Justice – the ruling/court's decision – is still an **individual decision** or the **law for other cases?**

Administrative Justice in the Czech Republic

- 1867 and 1876 in Austrian Empire – Code of Administrative Justice (Act Nr. **36/1876** Coll.)
- Act Nr. **3/1918** Coll. – Code of Administrative Justice; „only“ Supreme Administrative Court and the cassation complaint (against administrative decision)
- Adoption of the **Code of Administrative Procedure** (in 1928) was **strongly influenced by the case law** of the Austrian/Czechoslovakian (Supreme) Administrative Court
- **To cover the Loopholes in legal regulation**

Administrative Justice in the Czech Republic

- **Restoration** in 1992 (to 2003), with **lack** of Supreme Administrative Court – **8 regional** administrative courts and **2 High Courts** in administrative matters
- **Different/inconsistent** court rulings

Administrative Justice in the Czech Republic

- **New system** (since 1. 1. 2003, Act Nr. 150/2002 Coll., Code of Administrative Justice)
- **Regional courts and Supreme Administrative Court**
- Possibility to take an action against: **decision, inactivity, factual acts, act of general measure** (since 2005), ... Wide scope of judicial protection
- **Unacceptability of cassation complaint** (since 2005) in the matters of international protection (asylum sphere)

Administrative Justice in the Czech Republic

Forms of public administration activity		Form of judicial protection
Administrative act	Normative administrative act	cancellation by Constitutional Court
	Individual administrative act	1) administrative decision - proceedings on action against a decision of an administrative authority (Section 65 et seq. of the Code of Administrative Justice - CAJ) 2) so-called other acts - review as the underlying act in proceedings on action against decision of an administrative authority (Section 75 par. 2 of the CAJ), or in proceedings on action for protection against unlawful intervention (Section 82 et seq. of the CAJ)
	Mixed administrative act	Measure of a general nature - proceedings on a petition for cancellation of a measure of a general nature (Section 101 et seq. of the CAJ)
Public law contract		It is as such not a direct subject matter of a judicial review, but a decision based on it may be subjected to a review - proceedings on action against decision of an administrative authority (Section 65 et seq. of the CAJ) or in proceedings on action for protection against unlawful intervention (Section 82 et seq. of the CAJ)
Factual act and immediate intervention		proceedings on action for protection against unlawful intervention (Section 82 et seq. of the CAJ)

Administrative Justice in the Czech Republic

- **Creation and transforming the law**, even the legal regulation contains the rule (against the law), power to rewrite the legal regulation – **no loopholes**
- **The Parliament usually agrees** (only in small amount of cases was adopted legal regulation that is different than the case law – **3 cases**)
- Purpose of Administrative Justice – **ex post control** or **direct decision making proces?**

Administrative Justice in the Czech Republic

Expectations:

- **Specialization?**
- **Control or direct decision making in the case?**
- **Scope of review? Unacceptability of cassation complaint**

Ombudsman

- Established in 2000, Act nr. 349/1999 Coll., seated in Brno
- „Public Defender of Rights“
- <https://www.ochrance.cz/en/>

Ombudsman

- Protects people against the conduct of authorities and other institutions if the conduct is **against the law**, does not correspond to the principles of a democratic **legal state** and the **principles of good administration**, or the authorities **are inactive**.
- He/she also carries out preventive systematic visits to places where people are **restricted in their freedom** and seeks to ensure that their rights are respected. The Defender also contributes to promotion of the **right to equal treatment and protection against discrimination** and also systematically deals with the rights of the **people with disabilities**.