

Ne bis in idem principle in the application of liability for administrative offences

Abstract

The thesis deals with the principle of *ne bis in idem* in the application of liability for administrative offences, which aims to guarantee the protection of an individual against repeated prosecution or punishment for the same act. The thesis includes a detailed analysis of the content and application of this principle in European and Czech law. In the introduction, the principle is included among other principles of administrative sanctioning, followed by an analysis of the concept of *ne bis in idem* as such, including its substantive and procedural aspects.

The thesis then examines the anchoring of the principle in the sources of law. At the international level, the most important is the Convention for the Protection of Human Rights and Fundamental Freedoms, together with the later adopted Protocol No. 7. In Czech legislation, it is important to examine the Charter of Fundamental Rights and Freedoms and, at the statutory level, the Act on Liability for Offences and Proceedings thereon, together with the Criminal Procedure Code. The thesis confronts the basic premises of the different legal provisions and highlights their different approaches.

The next section deals with the conditions for the application of the *ne bis in idem* principle as formulated by the European Court of Human Rights (ECtHR). The first condition is the criminal nature of both proceedings, where the ECtHR has established the so-called Engel criteria. These include the criminal nature of the two proceedings, the nature of the offence, the purpose of the sanction and the type and severity of the sanction. The second condition is the identity of the offence in both proceedings. In *Zolotukhin v. Russia*, the ECtHR adhered to the concept of *idem factum*, which provides that identity of the facts, is established if the specific facts concern the same accused and are inextricably linked in time and place. Engel's final criterion is double prosecution. The test of factual and temporal continuity, as described by the ECtHR in *A and B v. Norway*, is crucial to the assessment of this condition. The thesis also discusses the possible reaction of Czech national courts to the above conclusions and describes possible criticisms.

The final part analyses the possible combinations of competing administrative offences and criminal offences depending on which proceedings are initiated first. The thesis examines the procedural procedures that are activated in these situations and the problems encountered in practice. One of the possible ways to improve the practice of administrative and criminal authorities is to expand the registration of administrative offences.

Keywords: ne bis in idem, administrative offence, duplicative punishment