General Principles and Challenges of Public Administration Organization in the Czech Republic

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ABSTRACT

This chapter provides an overview of the organization of public administration in the Czech Republic. It can be traced back to more than four decades of communist totalitarian rule, which prohibited self-governance and established a State based on central management. A territorial and interest-based self-government was re-established after 1989, with substantial changes introduced in the organization of public administration. At the outset, this paper presents the general theoretical and legal background of the organization of public administration and its principles. The key aspect here is that the organization of public administration in the Czech Republic is based on the co-existence of local self-government and State administration. Therefore, a mixed public administration model is applied, under which authorities of territorial self-government units, in addition to exercising their independent competence (self-government), are entrusted with performing State administration as part of their delegated competence. Possible considerations regarding the future organizational structure of public administration in the Czech Republic have also been included.

KEYWORDS

administrative authority, delegated competence, municipalities, public administration, regions, self-government, State administration

1. Basic social, geographical and economic overview

The Czech Republic (also known as Czechia) is located in Central Europe and is considered the 'Heart of Europe'. It is a landlocked country bordered by four States—Poland, Germany, Austria and Slovakia. The Czech Republic became an independent country on 1 January 1993, before which it existed as one of the two republics of the Czechoslovak Federation since 1969 (and even earlier as the former Czechoslovakia established in 1918). The Czech Republic also represents the continuation of more than 1,000 years of Czech statehood and culture; however, from 1526 to 1918, it was part of the Austrian Empire.

The territory of the Czech Republic is relatively diverse, and includes both lowlands, especially the valleys of the Elbe and Morava rivers, as well as hills and mountains. It is typical of the geography of the Czech Republic that mountains form

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natural borders in the north and west of the country, with Poland (Jeseníky and Krkonoše) and Germany (Krušné Hory and Šumava). The highest mountain peak is Sněžka (1,602 metre), which is located in the Krkonoše mountain range. A number of rivers originate in the Czech Republic and flow into larger rivers or are tributaries of some seas. The rivers flow into the Baltic Sea (Odra), North Sea (Elbe and its tributary Vltava) and Black Sea (Morava and Dyje, as tributaries of the Danube); the rivers also form a natural border between the Czech Republic, Austria and Slovakia. The territory of the Czech Republic and its borders have remained fundamentally unchanged for over 1,000 years. There are four areas in the Czech Republic with the highest level of environmental protection: the national parks of Krkonoše (1963), Šumava (1991), Podyjí (1991) and Czech Switzerland (2000).

The Czech Republic has a population of approximately 11 million (2023), with the number steadily increasing mainly because of immigration. As of 2024, there are approximately 200,000 refugees from Ukraine living in the Czech Republic in the wake of the war. The majority of the population comprises Czechs, Moravians and Silesians. In addition to the Czech nationality, which is dominant, there are Slovaks, Poles, Ukrainians, Vietnamese and Roma. The official language is Czech, although Slovak is also accepted officially. The Czech Republic is an atheist country, with approximately 10% declaring themselves as members of the Roman Catholic Church (according to the 2021 census). The population density is 136 inhabitants per square kilometre, with the population distributed evenly between towns and villages.

Although the Czech Republic has been historically divided into Bohemia, Moravia and Silesia, the current administrative division completely ignores this aspect because it is based on the existence of 14 regions that were created mostly artificially in 1949 (and later in 1997) and are not comparable to each other in their size.

The territory of the Czech Republic comprises municipalities, towns, cities, statutory cities and the capital city of Prague. Prague and statutory cities may be further internally subdivided into urban districts. The number of municipalities in the Czech Republic totals over 6.200, which will be mentioned comprehensively later in the text. The largest cities are Prague (1.2 million inhabitants), Brno (400,000) and Ostrava (300,000). Most towns and villages have elaborate traditions, considering that they have been founded several hundreds of years ago.

The Czech Republic has transitioned from a centrally-planned economy to a market-based system. The country has implemented several reforms to attract foreign investment, enhance competitiveness and stimulate economic growth. Manufacturing plays a vital role, particularly in the automotive (Škoda, Hyundai, Toyota and Tatra) and weapons industries. Other important manufacturing sectors include machinery and electronics. The Czech Republic is known for its beer (e.g. Pilsner Urquell, Budvar) and glass production.

The country has a market economy that, according to economic, social and political indicators, reinforces its status as a highly developed country. Economically, it is one of the richest countries in the world, maintaining a relatively high income with

low levels of income inequality (but, at the same time, high wealth inequality). Compared to other countries, it has a very small proportion of its population living below the poverty line. Unemployment rates have long been low and below the average of developed countries. The economically weaker areas are those in the north near the border with Poland or Germany, which were mainly inhabited by the German minority until 1945; the original population was replaced by new inhabitants from different areas after expulsion.

The current problems of the Czech Republic can be identified, in particular, as excessive dependence on industry, shortcomings in investment (e.g. in education or scientific research) or an uncertain energy policy. Growing public debt, although not rapidly, is also a significant issue. However, it is important to distinguish between the State's indebtedness and that of local self-government units (municipalities and regions) because it is the former that is growing faster. This is mainly due to the Covid-19 pandemic, monetary inflation, subsequent energy crisis and the war in Ukraine. In principle, local self-government units do not have high levels of debt, although they are primarily dependent on tax revenues and transfers from the State budget. The Czech Republic is a member of the European Union (EU) (2004) and the North Atlantic Alliance (1999).

2. Public administration and constitutional order

Several laws regulate the organization of public administration in the Czech Republic. However, the legal basis for the organization of public administration lies primarily in its Constitution. Understandably, the Constitution not only regulates issues of the organization of public administration, but also deals with the general position of public administration in the system of public authority (public power), as well as the position and rights of the individual vis-à-vis public authority.

According to the Constitution, the Czech Republic is a democratic State governed by the rule of law based on respect for human rights and freedom. People are the source of all power in the State and exercise it through legislative, executive and judicial branches. State power may be exercised only within limits, in certain cases, and in the manner prescribed by law. Although the Czech Republic is a unitary State, it is based on the recognition of territorial self-government (and the Constitution contains its detailed foundations).

The Constitution of the Czech Republic neither includes the definition of public administration, nor provides detailed regulations in terms of organization or functionality. Public administration is, therefore, generally subject to provisions dealing with the executive branch of government, of which public administration is traditionally a part. In terms of executive power, the Constitution focuses primarily on the Government. From the perspective of the level of constitutional law, where public administration is part of executive power, the relationship between public administration and legislative and judicial power is worth mentioning.

In connection with public administration, it is important to mention the rules that affect its functioning; particularly, the principles of the rule of law, the right to access information and right to judicial protection, among others. These are included in the Charter of Fundamental Rights and Freedoms. There are also some constitutional provisions on the special tasks of public administration, in particular emergency governance.[1]

2.1. Public administration in terms of executive power

The Constitution of the Czech Republic provides a framework and normative foundation for the organizational system of public administration, which is divided into two subsystems: State administration and local governments.

The head of State is the President, elected by direct election for a five-year term, and by virtue of the so-called Parliamentary form of government, has certain powers although he/she does not have a direct relationship with public administration. The President appoints the Prime Minister and individual members of the cabinet of ministers (referred to in Czech constitutional law as the Government) as well as certain leaders of other central government bodies; is the Commander-in-Chief of the Armed Forces; appoints judges and promotes generals and university professors; and has the right to attend government meetings and discuss particular issues with the Government. The role of the President is specific in this respect and is linked to the fact that he/she is the head of the State and its representative externally and internally. Therefore, the exercise of powers is specific and, to a certain extent, independent of the public administration. In terms of the President's powers, it may be mentioned that the Constitution recognises those acts that require the counter-signature of the Prime Minister or a designated member of the Government, where the Government is subsequently responsible for these decisions.

The Government is considered the supreme executive authority and politically controls public administration; it is appointed by the President of the Republic, but is accountable to the Chamber of Deputies; the ministries, currently totalling 14, are headed by ministers. The Government is empowered to issue regulations to implement laws within its limits, and also directs and coordinates the activities of ministries and their subordinate bodies. By their design, the ministries possess national competence, and are superior to other administrative bodies of the State that exercise their powers either on the territory of the entire State or only in its territorial and administrative districts. In addition to the 14 ministries with broad and more general remit, there are 17 central government bodies operating at the central level, alongside the ministries; they may also have subordinate administrative bodies. Both the ministries and these central government bodies may issue regulations, known as decrees, to implement the law within the limits prescribed and based on express authorisation.

1 See Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic.

Under the Constitution, ministries and other administrative authorities may be established, and their powers prescribed only by law. The legal relations between civil servants in ministries and other administrative authorities are regulated by law.

With regard to executive power, the role of the Supreme Audit Office enshrined in Article 97 of the Constitution is worth noting. It is an independent body that exercises control over the management of State property and oversees the State budget spending. The executive branch also includes the Public Prosecutor's Office, whose key role is to represent public prosecution in criminal proceedings. Only the Supreme State Prosecutor is endowed with specific competences vis-à-vis the public administration, and can bring an action against a decision of an administrative authority before an administrative court in the public interest.

Although under Article 11 of the Constitution, the Czech Republic is a unitary State, Article 8 of the Constitution guarantees the self-government of local self-government units. Territorial self-government is addressed in a separate part of the Constitution under Articles 99–105. The European Charter of Local Self-Government is also an important source for local self-government.

According to Article 99 of the Constitution, the Czech Republic is divided into municipalities, which are basic territorial self-government units, and regions, representing higher territorial self-government units. Regions were established in 1997 on the basis of Constitutional Act No. 347/1997 Coll., on the creation of higher territorial self-government units, of which 14 have been functional since 2000. Their establishment or abolition is possible only through constitutional laws.

According to the Constitution, territorial self-government units are communities of citizens who have the right to self-government on the territorial basis. A municipality is always a part of a higher territorial self-government unit; according to Article 101 of the Constitution, the municipality and region are independently administered by a council that is elected for a four-year term. Municipal and regional councils may, within the limits of their competence, issue their own legislation, referred to as generally-binding decrees, for the territory of the municipality or region. Article 105 of the Constitution states that local authorities may be entrusted by law with the exercise of the State administration.

2.2. Parliament and public administration

In a parliamentary democratic form of government, the focus is on the Parliament and its relationship with public administration (the executive power). In the case of the Parliament of the Czech Republic, it can be assumed that its relationship with public administration is based on the fact that 1) it approves laws as key regulations for the performance of public administration, 2) is closely connected with the Government and 3) represents a specific form of public administration control.

The Parliament adopts laws, including constitutional, and thus creates, among other, rules for public administration organization. Here, the Parliament is sovereign in terms of the content of statutory legislation, and its general role is to adopt legislation, which is then implemented by public administration. Therefore, it sets

the basic parameters for public administration. Simultaneously, the law represents what is the existence of both the public administration organization and its activities based on. Public administration is therefore carried out *secundum et intra legem* and not *contra legem*.

The Government is accountable to the Chamber of Deputies and is required to earn its trust. The Chamber of Deputies, together with the Senate, has a significant role in the organization of public administration because new authorities (ministries, other central authorities or national authorities, etc.) can only be established and their scope determined by the law they issue. Higher territorial self-governing units can be established only through constitutional law.

From a control perspective, it can be noted that the Chamber of Deputies approves the annual State budget, which serves as the basic and binding financial framework for managing the State and performing administrative activities. The Chamber of Deputies provides the Government and its members with the possibility of so-called interpellation, that is, asking specific questions to individual members of the Government, who are obliged to answer either in writing or orally. The Parliament can also establish various control bodies or commissions. The Chamber of Deputies or the Senate also participates in the appointment of some leading representatives of Central State administrative bodies. It is also worth mentioning the Public Defender of Rights (the ombudsman institution), who serves as a unique controller of public administration and is elected by the Chamber of Deputies.

2.3. The judiciary and public administration

According to Article 90 of the Constitution, the basic task of courts is the protection of rights. The Czech Republic has a civil, criminal, administrative and constitutional judiciary, and based on the nature of the matter, administrative and constitutional justice is closest to public administration. The Constitution provides for the explicit existence of the Constitutional Court and Supreme Administrative Court.

From the standpoint of public administration and the judiciary, it is worth mentioning that from 2021, the organization of the judicial system no longer fully corresponded to the organization of public administration. Therefore, the districts of administrative bodies are not identical to the districts of courts. While considering the differences between the two powers, there seems to be no problem, although it may cause certain ambiguities in the area of administrative justice. It can also be mentioned that although the exercise of the judiciary has been isolated from the exercise of administrative activities since the 19th century, public administration is nevertheless partially connected with the judiciary. In addition to the traditional perception of the mission of courts in terms of judicial control of public administration and protection of rights of natural and legal persons, the role of public administration can be mentioned within the so-called State administration of courts. Public administration acts to support the implementation of judicial power, administration of court buildings and appointment of court officials, including judges (outside the Constitutional Court). According to Article 95(2) of the Constitution, judges are only

bound by the law and an international treaty in their decisions. Therefore, they are not bound by legal regulations issued by the public administration and are not obliged to apply them in each case.

Administrative justice is important for the relationship between the judiciary and public administration. The current administrative justice model dates back to 2003, and is based on the independent existence of the Supreme Administrative Court and eight regional courts, which, however, are not independent courts but part of regional courts for the execution of civil and criminal justice. However, the specialisation of individual judges for the agenda of administrative justice has been established. The purpose of administrative justice is to provide protection to the public individual (subjective) rights of natural and legal persons. This is key, considering that administrative courts are not called upon to take public interest into account when reviewing outputs from public administration. Therefore, the protection of objective rights is not the primary purpose but a consequence of the protection of subjective rights; and administrative justice is based on a review in relation to public administration.

The primary task of the Constitutional Court is the protection of constitutionality and the public's constitutionally-guaranteed rights. Constitutional judges, totalling 15, are appointed by the President of the Republic after prior approval of the Senate for a 10-year term. A major part of the Constitutional Court's work consists of deciding on constitutional complaints, which can be filed by anyone if their constitutionally-guaranteed rights have been adversely affected and they have exhausted the remedies in vain. The Constitutional Court is also tasked with protecting objective law, (on the basis of so-called abstract scrutiny of norms, which is typically initiated by members of Parliament), and generally annuls laws and other legal regulations if they are found to unconstitutional. In relation to public administration, the Constitutional Court is empowered to decide on the so-called municipal constitutional complaints by which territorial self-governing units seek the protection of their constitutionally-guaranteed right to self-government. In addition, the Constitutional Court is authorised to cancel legal regulations of territorial self-governing units (municipalities and regions).

3. General theoretical and legal basis

3.1. Public administration and administrative law

Public administration is an important development that has traditionally been a subject of interest in various disciplines, including law. Administrative law should first be discussed in terms of the legal regulation of public administration. This is a branch whose subject matter is, essentially, public administration; the science of administrative law is concerned with the study of the legal regulations of public administration. Administrative law is a traditional aspect of the legal order and its origins can be traced back to the turn of the 18th and 19th centuries.

Generally, Czech administrative law was Austrian administrative law until late 1918, since up to that point the Czech territory formed one of the western parts of the Austrian Empire (and later a part of Austria within the Austro–Hungarian Empire). Therefore, the history of Czech administrative law largely overlaps with that of Austrian administrative law. The origins of administrative law in the territory of the present Czech Republic could therefore be associated with the revolutionary year of 1848, which led to gradual democratic processes in the former Austrian Empire and establishment of the foundations of modern administrative law. In that year and the years that followed, serfdom was completely abolished and the former patrimonial administration was replaced by a professional State administration and self-government in some areas.

These developments were based on several constitutional documents (the so-called April Constitution of 1848, March Constitution of 1849, February Constitution of 1861 and December Constitution of 1867), which established the structure of a modern State (mainly in terms of distinguishing between legislative, executive and judicial powers) and guaranteed citizens certain fundamental rights (such as religious freedom, right to education, freedom of expression, right to petition, right of assembly, personal freedom and others). Nevertheless, the system seemed imperfect and far from democratic (in particular, the universal suffrage for men was introduced in 1907 and women's suffrage was not adopted until the declaration of independence of Czechoslovakia in 1918). Furthermore, this development was not consistent (especially there was a significant 'backward movement' in the 1850s during the so-called neo-absolutism period).

At the statutory level, Act No. 18/1960 of the Reich Code needs particular mention, since it laid down the basic rules according to which municipal affairs were to be organized (the so-called Reich Municipal Framework Act), on the basis of which laws were issued implementing the Municipal Establishments of Bohemia, Moravia and Silesia (based on the same foundations with minor differences), which were applicable until the Second World War, and later served as the basis for the current legal regulation of Czech territorial self-government. Another important law from this period is Act No. 36/1876 of the Reich Code on the Establishment of the Administrative Court, which effectively founded the Administrative Court in Vienna, the highest administrative court of the Austrian part of the Austro–Hungarian Empire.

The need for a new legal system arose after Czechoslovakia declared independence from the former Austro–Hungarian Empire in October 1918. This led to the establishment of a new unitary State (constitutional republic) comprising Czechia and two former parts of the Hungarian Kingdom: Slovakia and Subcarpathian Ruthenia. Initially, the new legal order was based on the adoption of all former provincial and imperial laws and regulations (via Act No. 11/1918 Coll., on the Establishment of the Independent Czechoslovak State), some of which remained in force throughout the existence of the newly-created State. This resulted in a dualism of the adopted Austrian law and the newly-created law by the Czechoslovak State, which lasted until the 1950s (when the existing legal system was gradually replaced by communist legal doctrine).

As mentioned earlier, some aspects of the public administration have been newly regulated. The new Supreme Administrative Authorities (Act No. 2/1918 Coll.) and Supreme Administrative Court (Act No. 3/1918 Coll.) were created. There have also been attempts to reform the territorial organization of the State based on the transition from a provincial organization (consisting of four provinces—Bohemia, Moravia, Slovakia and Subcarpathian Ruthenia) to a county organization (based on Act No. 126/1920 Coll., on the Establishment of County and District Authorities in the Czechoslovak Republic), which, however, was not successful. Later developments reaffirmed the provincial and district systems (Act No. 125/1927 Coll., on the Organization of Political Administration). However, it is worth noting that during this period, Czechoslovakia was a rather centralised State, with a weaker role of territorial self-government (e.g. the Government appointed one-third of the provincial assemblies with its representatives and could also dissolve these bodies). In terms of administrative procedural law, the first (Czech) Administrative Procedure Code[2] particularly reflected the influence of the Austrian Administrative Procedure Code of 1925.[3]

In the period after 1938 (referred to as the Second Republic, whereas the preceding period is commonly known as the First Republic), Slovakia and Subcarpathian Ruthenia acquired autonomy, and Czecho–Slovakia was federalised. As a result of the Munich Agreement and related territorial losses, the State's previous democratic character was lost. During the period of occupation by Nazi Germany between 1939 and 1945, there was a dualism of the Reich and State authorities (the former unsurprisingly had a decisive influence). After the end of the Second World War (in the period of the so-called Third Republic), the decrees of the former President of the Republic (Edvard Beneš) played an important role in the legal regulation of the reconstituted State. The administration of the State was performed by national committees, but with the growing influence of the Communist Party, it culminated in the Communist coup d'état in February 1948.

The following period of so-called communist law[4] is characterised by a de facto one-party political system, with the Communist Party of Czechoslovakia playing a leading role in society and the State, which was later constitutionally anchored.[5] According to Austrian legal scholar Adolf Merkel, the triad of legal–political requirements of

2 Issued not as a law but as Government Decree No. 8/1928 Coll., on the Proceedings in Matters Falling Within the Competence of Political Authorities (Administrative Procedure).

3 For more details on the significance of the Austrian Administrative Procedure Code, see the comparative research initiative 'Common Core of European Administrative Laws' (CoCEAL) [Online]. Available at: http://www.coceal.it/index.php (Accessed: 1 October 2024) or della Cananea, Ferrari Zumbini and Pfersmann, 2023, p. 352.

4 It can be pointed out that the economic and political system of this period is rather being described as 'real socialism', because communism in its theoretical (ideal) sense was far from being achieved. Nevertheless, the term 'communist law' as a legal system shaped by communist elites is also being used; for details see an extensive study: Bobek, Molek and Šimíček, 2009, p. 1005.

5 See Article 4 of the Constitution of the Czechoslovak Socialist Republic of 1960 with its apparent revolutionary ethos, available in Czech: https://www.psp.cz/docs/texts/constitution_1960.html (Accessed: 1 October 2024).

liberalism can be recognised by various means, including the existence of administrative justice and legality of public administration and self-government.[6] All these requirements were deconstructed during the communist period. With minor exceptions, the administrative justice system was practically abandoned shortly after 1948 and formally in 1953. Self-government was completely 'nationalised' and replaced by national committees hierarchically subordinated to Central State authorities and the Communist Party. Finally, the legality of public administration was replaced by so-called socialist legality, which was, however, not legality in the true sense;[7] accordingly, the democratic rule of law was effectively abolished.

Territorially, the State was divided into regions and districts, and State administration was provided by a system of national committees (local, district and regional). Even civic utilities were provided by the State through the legal institute of 'socialist organizations'; the private sector was, with minor exceptions, legally non-existent. In 1969, Czecho–Slovakia became a federation of two formal sovereign States (Czech Socialist Republic and Slovak Socialist Republic). During the last stages of the communist regime, efforts were made to modernise the State administration, although its totalitarian character fundamentally remained unchanged. Administrative law in this period did not follow the legal tradition of the First Republic, but rather became a purpose-built system for upholding the political regime that, as expected, did not contemplate effective guarantees of individual rights and freedom.

After the so-called Velvet Revolution of November 1989, the democratic rule of law was restored, which included the renewal of self-government. Administrative law continued to use some of the amended laws from the earlier period (in particular, Act No. 71/1967 Coll., the Administrative Procedure Code, which was in force until the end of 2005), while also drawing from the period of the First Republic (especially in the context of the revitalisation of territorial self-government). Shortly thereafter, the federation disintegrated and the independent Czech Republic came into existence in 1993, which resulted in the adoption of the current Constitution of the Czech Republic[8] and its own system of administrative law. From an international perspective, the Czech Republic joined the Council of Europe in 1993 and subsequently, on 1 May 2004, the EU as well.

Since the issue of public administration and its legal regulation, which is part of administrative law, is relatively broad, it is possible to encounter a distinction between organizational, substantive, procedural and criminal administrative law (and corresponding norms of administrative law).

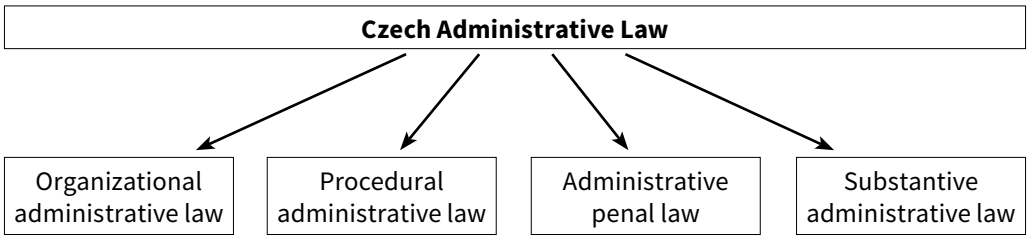
Organizational administrative law can be defined as establishing the basic principles of the organization of public administration and specifying the position,

6 Merkel, 1931, p. 215.

7 Later, the concept of 'socialist legality' was criticised even by the prominent legal scholar of the communist period Viktor Knapp (Knapp, 1995, p. 212).

8 Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, available in English: https://www.psp.cz/en/docs/laws/constitution.html (Accessed: 1 October 2024).

organization, authority and scope of the subjects of public administration.[9] Organizational norms are present in the most general form in the Constitution or other constitutional laws, as well as in a large number of ordinary laws focusing specifically on self-government. However, some laws mainly consist of organizational norms, in particular Act No. 2/1969 Coll., on the Establishment of Ministries and Other Central Bodies of State Administration (the so-called Competence Act, which, in its extensively amended version, continues to be applied).



Substantive administrative law represents the substantial regulation of particular areas of public administration, defining (in relation to the legal status of public administration subjects) the conditions and prerequisites for the realisation of rights and obligations of public administration addressees.[10] This category includes areas of special administrative law mentioned earlier.

Procedural administrative law regulates the procedural status of the subjects of the administrative procedure, as well as the actual procedural rules for deciding on the rights, legally-protected interests and obligations of participants in administrative procedures (or other types of proceedings carried out by public authorities established to perform duties and tasks of public administration).[11] The primary procedural regulation governing this area is Act No. 500/2004 Coll., the Administrative Procedure Code. The administrative judiciary is regulated procedurally mainly by Act No. 150/2002 Coll., which is the Code of Administrative Justice. However, several procedural rules are also contained in special laws.

Administrative penal law, in some respects, intersects with the above categories, as it is applied on the basis of violations of organizational, substantive and procedural norms. Its content is the regulation of the so-called administrative law liability, which, in Czech theory, is usually divided into the liability for a triad of offences–misdemeanour, disciplinary and order offences. The main legal regulation is represented by Act. No. 250/2016 Coll.

In the three[12] basic textbooks on general administrative law currently, the interpretation of the organization of public administration has traditionally received

9 Průcha, 2012, p. 43.
10 Průcha, 2012, p. 43.
11 Průcha, 2012, p. 43.
12 Průcha, 2012, p. 427; Sládeček, 2019, p. 512; Kopecký, 2023, p. 549.

significant attention.[13] In terms of specific publications focusing on the issue of the organization of public administration, monographs dealing with territorial (municipal) self-government[14] or its selected specifics, such as their legislation[15] or property,[16] clearly dominate. This literature is also supplemented by commentaries on basic legislation, in particular, the Municipalities Act[17] and Regions Act.[18]

3.2. Public administration as State administration and self-government

(Not only) in the conditions of the Czech Republic, the term 'public administration' is a dual concept, and can be understood as a deliberate activity. It takes place in the forms prescribed by law, through which it interferes with individual rights; it can also be understood as a coherent organizational grouping. It was built precisely to ensure the performance of administrative activities, and its organization itself would be meaningless without its functional content. Public administration, as an organizational concept in the Czech Republic, includes both State administration and local (and special interest) self-government.

State administration is a crucial part of the public administration conducted by the State and its bodies. It encompasses different tasks of the State performed by these entities ('direct State administration'). In the Czech Republic, the State administration can also be carried out 'indirectly' by other bodies that are not part of the State administration ('indirect/transferred State administration'). This is a task for the bodies of territorial units. They are entitled (and also obliged) to perform State administration instead of the State and its bodies ('mixed model' of public administration). They perform State administration but are not part of the State administration in the organizational sense. The supreme authority in the State administration is the Government, to which ministries and other central government bodies report. Administrative bodies with national competence and specialised territorial bodies of the State administration are considered their subordinates.

Self-government includes local, regional and also 'university/interest and professional' self-government. The essence of self-government is the exercise of public administration by entities other than the State. It is the administration of the part of public affairs by those directly concerned, independent of the State. In this respect, the State leaves the administration of part of the affairs to public law corporations, to administer their affairs themselves and on their own behalf.

Two key subjects of public administration emerged in the Czech Republic. They are the State and various (other) public law corporations as representatives of local

13 From the viewpoint of administrative science, see Hendrych, 2014, pp. 103–178 or Skulová et al., 2023, pp. 60–75.
14 Kopecký, 2017, p. 364; Malast, 2016, p. 340.
15 Kadečka, 2003, p. 408; Furková et al., 2022, p. 436.
16 Havlan and Janeček, 2014, p. 398.
17 Vedral, 2008, p. 861; Kopecký et al., 2022, p. 351; Potěšil et al., 2019, p. 838.
18 Pospíšil et al., 2022, p. 510; Cogan, 2018, p. 488.

self-government. They subsequently exercise public administration through various bodies at different levels and in different areas of public affairs.

3.3. Organization of public administration and its principles

The key question concerns the perspective from which the organization of public administration should be conceived and built. It is suggested that it should be the State in the first place, in order to be able to manage and administer it effectively. However, the perspectives and interests of the people in relation to whom public administration is exercised should also be taken into account. Accordingly, from this perspective, ensuring access to public administration is a key requirement, and the final design of the organization of public administration should consider both these requirements. First, it should be designed to enable the effective performance of public administration and second, people should have easy access to it; public administration should be 'close' and generally accessible to them. In the wake of digitalisation, public administration has brought people closer, thus fulfilling the requirement of closer access to public administration.

Traditionally, Czech literature presents pairs of so-called organizational and technical principles, the application degree of which may vary.[19] These organizational and technical principles are reflected in the organization of public administration. These principles are:

a) Centralisation × decentralisation
b) Concentration × deconcentration
c) Territoriality × substance
d) Monocratic × collegial
e) Official × lay
f) Electoral × Appointive

While the principles of centralisation, monocracy, officials and appointments are typically applied to State administration, the principles of decentralisation, territorial, collegial, lay and electoral determine local self-government. However, since there are several exceptions, it is usual that both opposite principles are applied simultaneously, but to different degrees.

3.4. Legal basis for the organization of public administration

The legal provisions governing the organization of public administration in the Czech Republic are as follows:

- Constitutional Act No. 347/1997 Coll., on the creation of higher territorial self-government units
- Act No. 2/1969 Coll., on the establishment of ministries and other Central State administration bodies
- Act No. 128/2000 Coll., on Municipalities

19 Hendrych, 2014, p. 117.

- Act No. 129/2000 Coll., on Regions
- Act No. 131/2000 Coll., on the capital city of Prague
- Act No. 51/2020 Coll., on the territorial administrative division of the State

From the list of these basic legal regulations, it can be deduced that the organization of public administration in the Czech Republic is based on the existence of municipalities and regions as basic and higher territorial self-government units. The latter exercise self-government in the territories of municipalities and regions; concurrently, they carry out a delegated part of State administration in their territory. In terms of the exercise of State administration in the territory of the State, the territory is divided into regions and administrative districts of municipalities with extended competence and districts and administrative districts of municipalities with extended competence.

4. Public administration organization in the Czech Republic

4.1. System of administrative bodies

With the exception of State-level public administration, the Constitution of the Czech Republic recognises only territorial self-government. However, at theoretical and legal levels, non-territorial self-government entities are also perceived as part of public administration. From an organizational point of view, public administration in the Czech Republic could be divided into State administration and self-government. Self-government can generally be classified into territorial (including municipal and regional administration) and, to a lesser extent, non-territorial. Public administration is exercised by authorities at the aforementioned levels, but exceptionally, even natural or legal persons can be delegated (authorised) to exercise public administration by law.

Administrative Bodies in the Czech Public Administration	
State Administration	Ministries and other Central State administration bodies (including some independent administrative bodies)
	Specialised territorially-decentralised bodies
	Bodies of territorial self-government (in case of 'delegated competence')
	Natural or legal persons (in case of delegation or authorisation)
Self-government	Territorial self-government (municipal and regional administration bodies)
	Non-territorial self-government (bodies of 'profession and interests self-government' entities)

4.2. State level of public administrative bodies

State administration can generally be divided into central and territorial levels; the Central State administration bodies are specialised, have competences over the entire territory of the State, and are hierarchically superior to territorial State administration bodies. The territorial bodies are constructed as specialised bodies of State administration (e.g. tax offices, social security and regional police directorates), or certain tasks of State administration are performed by territorial self-government on the basis of statutory mandates.

At the central level, according to the Constitution (Article 67), the highest body of executive power is the Government, which consists of the prime minister, deputy prime minister and ministers, and is accountable to the Chamber of Deputies (and more generally to the Parliament of the Czech Republic as the legislative power, including the Senate as the second chamber). The Government's role (with some rare exceptions, where it exercises public authority) is the political and conceptual management of State administration. Therefore, the Government is generally empowered to manage State administration internally through its decrees.

The Czech legal order distinguishes between two types of Central State administration bodies, the ministries and other Central State administration bodies, established by the Competence Act. The first group includes central authorities headed by ministers, and currently, there are 14 ministries. The second group comprises 17 central bodies not headed by a minister, and includes bodies that are fully subordinate to the Government (effectively specialised government agencies) and bodies that have a specific degree of independence.

The Czech legal order does not explicitly identify the status of an independent administrative body. However, some administrative authorities are considered (with varying levels of independence from the Government). In particular, the Council for Radio and Television Broadcasting, Office for Personal Data Protection, Office for the Protection of Competition, Czech Statistical Office, Energy Regulatory Office and Czech Telecommunication Office.[20] The Czech National Bank, which is enshrined in the Constitution, also has a similarly independent position, particularly in the context of the administrative supervision of the banking market.

Significant for the execution of State administration in the Czech Republic at the territorial level is the previously-mentioned performance of State administration duties through bodies of territorial self-government, especially through municipalities (municipal offices). For this purpose, a three-tier categorisation of municipalities was established. It divides municipalities into 'municipalities with basic competence', 'municipalities with delegated municipal authority' and 'municipalities with extended competence' (with decreasing numbers of municipalities).

Municipalities that are higher in this categorisation are legally delegated a broader range of State administration, and in the exercise of State administration, municipal authorities are generally subordinate to higher-ranking authorities exercising State

20 Pouperová, 2014, pp. 216–217.

administration. 'Municipalities with a registry office' and 'municipalities with a construction authority' also form similar categories. In this manner, which is legally referred to as delegated competence of municipalities, general State administration in the territory is performed. Apart from the agenda of construction authorities and civic registers (births, deaths, marriages, etc.), this is also the case with the agenda of issuing ID cards, hearing misdemeanour and environmental protection among others. The figure below illustrates municipalities with extended competence.

Map of administrative districts of municipalities with extended competences[21]

However, in the case of construction authorities, the legislature was considering moving the agenda under some of the specialised State administration bodies (e.g. similar to the aforementioned tax offices), citing possible conflicts of interest of municipalities when assessing their own construction proposals and the possibility of better methodical influence of the competent ministry over the construction agenda.[22] The Czech approach to the exercise of State administration in the territory

21 Map of administrative districts of municipalities with extended competences. Hustoles, Public Domain. Source of picture: https://en.wikipedia.org/wiki/Districts_of_the_Czech_Republic#/media/File:ORP.PNG.

22 In particular, the transfer of the construction office agenda from selected municipal authorities to specialised state administration bodies was considered. Despite this intent, the final version of the recodification of Czech construction law through Act No. 283/2021 Coll., the Construction Act, does not contain this change (although earlier versions of this recodification did). However, it may be added that the division of the exercise of state administration between the State authorities and territorial self-government bodies is not only a legal issue, but also a political one.

is, therefore, generally based on the Austro–German tradition in the form of the so-called mixed model of territorial State administration, although it also includes cases of separate exercises of State administration from territorial self-government (historically typical for the French approach).

When it comes to exercising public administration not by an authority (e.g. in the form of the provision of public utilities), the State is referred to in the Czech legal system as a legal person (of public law).[23] Therefore, it is legally subjective and can interact with other legal entities in private law relations. It acts in this manner through its organizational units (usually individual ministries), although it may also establish other legal entities to fulfil its duties. However, the legal regulations for these entities are not comprehensive under Czech law, and is rather a thorough modernisation of the legal forms applied before 1989. Specifically, under certain conditions, the State may establish State enterprises (legal entities of public law intended for doing business in the public interest[24]), State contributory organizations (non-profit public legal entities[25]) or State funds.[26] The State may also establish and be a shareholder of legal persons in private law (such as State-owned enterprises[27]).

However, in the Czech Republic, public property management is not traditionally regulated by administrative law. Instead, it is an area of the application of private (contract) law and certain public law restrictions on the State in the management of so-called public property (and, similarly, for other public entities owning such property). These restrictions are generally aimed at ensuring due diligence in the management of public property or limiting certain high-risk transactions and, in the case of State property, are regulated in particular in Act No. 219/2000 Coll., on the Property of the Czech Republic and its Representation in Legal Relations.[28] Therefore, neither State-owned entities are understood in Czech administrative law theory as a body of State administration in the traditional (narrower) sense.

23 Under Section 21 of Act No. 89/2012 Coll., the Civil Code, the State is considered a legal person in the area of private law. Another legal regulation determines how the State acts legally (which is the Act on the Property of the Czech Republic and its Representation in Legal Relations mentioned below).

24 These are in particular State enterprises providing strategic services (e.g. the Czech Post or the Czech Air Traffic Control), the management and use of natural resources (e.g. the Forests of the Czech Republic or State enterprises managing the basins of the most important rivers) and finally some State enterprises providing research or testing services.

25 They are most inspired by the previous legal regulation; for more details, see Havlan and Janeček, 2016, pp. 105–121. Examples of State contributory organizations are university hospitals (operated by the State but closely integrated with the activities of a public university).

26 These are the funds investing in various matters of public interest, e.g. the State Environmental Fund of the Czech Republic which co-finances (via subsidies or soft loans) projects to improve quality of environment.

27 E.g. the majority State-owned but still formally private energy conglomerate ČEZ, a. s.

28 Analogous regulation of financial management is laid down in Act No. 218/2000 Coll., the Budgetary Rules. Following the law of the European Union the area of public procurement is also legislated (in Act No. 134/2016 Coll., on Public Procurement).

4.3. Regional level of public administrative bodies

Territorial self-government in the Czech Republic consists of regions as 'higher territorial self-government units' and municipalities as 'elementary territorial self-government units'. Both levels are established in the Constitution and are associated with the constitutional right of these entities to self-government.[29] However, despite the constitutional assumption, the regions (of which there are 14, including the capital city of Prague, with a similar status) were created later by the Constitutional Act No. 347/1997 Coll., on the Creation of Higher Territorial Self-government Units, with effect from 1 January 2000, and they acquired all their competences as part of the completion of the territorial administration reform as of 1 January 2003. The 14 regions are illustrated below:

Map of Czech administrative regions[30]

The regions and their functions are regulated comprehensively by Act No. 129/2000 Coll., on Regions (Regional Establishment). As in the case of municipalities, regional competences are divided at the statutory level into autonomous and delegated competences. The essence of autonomous competence is the administration of the region's

29 Based on Article 8 of the Constitution, the right of autonomous territorial units to self-government is guaranteed. However, the Constitution does not guarantee the right to non-territorial self-government, although it is recognised in the Czech legal system.

30 Mapka českých samosprávných krajů, Fext, CC0. Source of picture: https://upload.wikimedia.org/wikipedia/commons/archive/2/20/20160102205217%21Samospr%C3%A1vn%C3%A9_kraje.png.

own affairs, or essentially, its own self-government. As stated in Section 1(1) of the Act on Regions: 'A region shall take care of the all-round development of its territory and the needs of its citizens'. In this context, regions organize certain areas of education, public health, public transport and management of transport infrastructure or other assets dedicated to public use. Regions may also exercise their public authority within the scope of their autonomous competence.

As far as the exercise of delegated competence is concerned, its essence has already been explained above, which is the exercise of State administration by the region, precisely, by its bodies, based on statutory authorisation. In this context, the bodies of regions are usually superordinated to bodies of municipalities in the area of delegated competences. However, in autonomous competence, regions and municipalities (regardless of their de facto status, especially in terms of size or importance) are legally equal public entities with an individually guaranteed right to self-government. Therefore, the legal interrelations between regions and municipalities depend on the form of competence being exercised.

The bodies of regions are defined (in the Act on Regions), similar to the bodies of municipalities, with modest differences in terminology, but generally not in the substance and functioning of these bodies. The main difference is the designation of the person representing the region externally (towards subjects standing outside the region's organization) as the governor instead of the mayor. The highest body of a region is the regional assembly, which is directly elected based on democratic principles similar to the municipal assembly.

Related to regions, but different in nature, are cohesion regions that have been established in relation to the needs of regional policy (in particular, in connection with the implementation of the EU Cohesion Policy and related NUTS classification of regions[31]). These units are formed by one or more regions (because not all regions are sufficiently populous for purposes of the NUTS 2 category), but unlike regions, they are not self-governing entities or exercise-delegated competences (and their practical importance is therefore minor).[32]

Similarly, districts are distinguished in the Czech territorial–administrative organization, but there is no longer any organizational level of State administration at this level (until the end of 2002, district offices functioned as the general State administration bodies in the territory, but were later replaced mostly by municipalities exercising delegated competences), or any territorial self-government at this level. There are currently 76 districts in the Czech Republic,[33] as described below:

31 'Nomenclature of territorial units for statistics' defined by Eurostat, for more detail see: https://ec.europa.eu/eurostat/web/nuts/background (Accessed 2 October 2024).
32 See Act No. 248/2000 Coll., on the Support of Regional Development.
33 See Act No. 51/2020 Coll., on the Territorial Administrative Division of the State.

Czech districts in autonomous regions[34]

Additionally, worthy of mention is the part of the State territory designated as military areas, which, according to the legislation, are defined as parts of the State territory intended for the purposes of State defence and for the training of armed forces, and form a territorial administrative unit established by law (currently there are four such areas[35]) with limited access to its territory. Military areas do not have a self-governing dimension, and their administration is carried out by area authorities subordinated to the Ministry of Defence.[36]

4.4. Municipal level of public administrative bodies

The basis of legal status of municipalities in the Czech territory dates back to the Provisional Municipal Act (also known as 'Stadion's Provisional Municipal Establishment'), promulgated as Imperial Patent No. 170/1849, according to which 'The foundation of a free state is a free municipality'. As mentioned above, in the context of regions, the Constitution (from 1993) is based on this assumption. However, the 'revitalisation' of municipalities began earlier, shortly after restoring the democratic rule of law in 1989, as the municipalities in their true meaning did not exist under

34 Czech districts in autonomous regions. Mapového náložník, Public Domain. Source of picture: https://en.wikipedia.org/wiki/Districts_of_the_Czech_Republic#/media/File:Okresy_%C4%8CR_2007.PNG

35 See Act No. 15/2015 Coll., on the Borders of Military Areas.

36 On the basis of the regulation contained in Act No. 222/1999 Coll., on Securing the Defence of the Czech Republic.

the previous period of communist law. Precisely, the previous system of national committees did not represent independent legal entities functioning on democratic self-governing principles.

Regarding the current legal status of municipalities, according to Article 101(3) of the Constitution, 'territorial self-government units', which include municipalities and regions, are public corporations that may have their own property and manage their budgets. Article 101(4) of the Constitution further limits State interference in the exercise of local self-government by providing that the State may interfere in the activities of territorial self-governments only if the protection of the law requires it and only in the manner prescribed by the law.

As provided for in Article 101(1) of the Constitution, the municipality is governed by a municipal assembly. Other municipal bodies (and other aspects of the municipal government) are regulated in Act No. 128/2000 Coll. on Municipalities (Municipal Establishment).[37] These bodies are the municipal council, mayor, municipal office and in some cases, special bodies of the municipality (e.g. misdemeanour commission). The municipal police also carries the status of a municipal body, but the establishment of the municipal police is optional. The Constitution also provides for the requirement of direct election of members of the municipal assembly on the basis of universal, equal and direct suffrage, including a four-year term of office (Article 102). However, the mayor is elected indirectly from among members of the municipal assembly.

The competences of municipalities can be autonomous or delegated. The tasks and instruments of the municipalities in terms of their autonomous competence are similar to those of the regions. Specifically, as provided for in Section 35(1) of the Act on Municipalities, the autonomous competence of a municipality includes matters that are assigned to the autonomous competence of a municipality by law or matters that are in the interest of the municipality and its citizens, unless they are vested by law to regions, delegated competences of the municipal authorities, or competences that are given by a special law to administrative authorities as the exercise of State administration.

According to Section 35(2) of the Act on Municipalities, a municipality shall, in accordance with local conditions and customs, create conditions for the development of social care and meet citizens' needs. These include housing, health protection, transport and communications, information, education, general cultural development and protection of public order.

Various property law operations related to the management of municipal property can be considered as a dominant dimension in the exercise of municipal autonomy. However, this area (except for the financial management of municipalities[38]) is not codified by a separate law as in the case of State property; the same applies to regional

37 Available in English: https://www.mvcr.cz/soubor/act-no-128-2000-coll-on-municipalities-establishment-of-municipalities.aspx (Accessed: 2 October 2024).
38 Regulated by Act No. 250/2000 Coll., on Budgetary Rules of Territorial Budgets.

property management regulations. Nevertheless, some similarities can be pointed out; for example, municipalities and regions can establish contributory organizations, which are similar in nature to State contributory organizations, or they can also establish or become shareholders of private law companies (typically so-called municipal enterprises providing public utilities on a private law basis).

Similarly to regions, municipalities also exercise public authority within their autonomous competences. They can issue general, binding decrees, which have the nature of administrative sub-statutory (secondary or by-law) regulations by which municipalities can impose rights and obligations on persons within their territory.[39] Legislation does not require statutory authorisation to establish rights or impose obligations on them. Instead, it is sufficient that a generally binding decree does not conflict with the law and regulates one of the areas listed in the Act on Municipalities (Section 10).

(a) to safeguard local matters of public order; in particular, it may determine activities that may disrupt public order in the municipality or contradict good morals, safety and protection of health and property may be carried out only in places and at times designated by a generally-binding decree, or determine that such activities are prohibited in certain public areas in the municipality;

(b) the organization, conduct and closing of sports and cultural events open to the public, including dance performances and discotheques, by establishing binding conditions to the extent necessary to ensure public order;

(c) to ensure that streets and other public spaces are clean, protection of the environment, greenery in built-up areas and other public green spaces, and the use of municipal assets serving the needs of the public.

(d) where a special law so provides.

Other important examples of the exercise of public authority within the scope of municipal autonomy include the issuance of zoning plans by municipal assemblies, which are then legally binding for the use of the municipal territory, while issuance of these acts is not a delegated competence.

Regarding the distinction between autonomous and delegated competence, the generally applied rules (in the Act on Municipalities and the Act on Regions) are that autonomous competence can only be limited by law; if the law does not stipulate that it is a delegated competence, then it is an autonomous competence. The practical significance of the distinction between these levels of competence lies mainly in the form of supervision over the exercise of municipal competence regulated by the Act on Municipalities (where the control of autonomous competence is, to a greater extent, attributed to the judiciary for the purpose of protecting the right to self-government against possible intervention by the State) or the regime of liability for damage caused by the exercise of public authority, where the State is directly liable for damage caused

39 Regions can also issue general binding decrees, but these are (unlike in the case of municipalities) not very common in practice.

by a municipality (but also a region) in the exercise of delegated competence, not the municipality (region) itself.[40]

It can be added that the Czech municipal self-government is characterised by a very large number of municipalities in general (according to the current data of the Czech Statistical Office there are 6,258 municipalities in the Czech Republic[41]) and perhaps an excessive number of smaller municipalities (nearly 5,000 municipalities have fewer than 1,000 and around 3,500 have fewer than 500 citizens[42]).[43] However, the size of a municipality does not have a legal impact on its self-governing status, because all municipalities are considered equal. Larger municipalities may bear the designation of town or city, although it does not grant them any different legal status. The only exceptions are statutory cities, which are divided by a statute[44] into city municipal districts with their own self-governing bodies and other differences resulting from this arrangement. These cities are established by the Act on Municipalities and not necessarily based on their population sizes. The capital city of Prague is also specific, combining the status of a municipality and a region, and is regulated by a special law (Act No. 131/2000 Coll., on the Capital City of Prague).

In the context of territorial self-government, it can be mentioned that the Czech Republic has also joined the European Charter of Local Self-Government, which entered into force on 1 September 1999 (however, the Czech Republic has also exercised the option to exclude the application of certain provisions of the Charter[45]).

4.5. Other public administrative bodies

While the Constitution guarantees only territorial self-government, Czech administrative law theory also recognizes a dimension known as non-territorial self-government, sometimes referred to as 'profession and interests self-government'. This self-government includes chambers of commerce with compulsory membership (e.g. Czech Bar Association, Notary Chamber of the Czech Republic, Czech Medical Chamber, Czech Chamber of Architects and Chamber of Auditors of the Czech Republic) or public universities.

40 See Act No. 82/1998 Coll., on Liability for Damage Caused in the Exercise of Public Authority by Decision or Maladministration.

41 For these statistics in English see: https://www.czso.cz/csu/czso/home (Accessed: 2 October 2024).

42 For these statistics in English see: https://www.czso.cz/csu/czso/home (Accessed: 2 October 2024).

43 For comparison with Organization for Economic Co-operation and Development countries, the Czech Republic has one of the highest levels of 'territorial fragmentation' (local governments per 100,000 inhabitants), see: https://stats.oecd.org/Index.aspx?DataSetCode=CITIES (Accessed: 2 October 2024).

44 Which is generally a legal regulation governing the basic aspects of a self-governing entity and in case of statutory cities is issued in the form of generally binding decree.

45 For these exceptions, see Communication of the Ministry of Foreign Affairs No. 181/1999 Coll., on the adoption of the European Charter of Local Self-Government.

These entities are, under certain circumstances, considered administrative bodies because they are established by law, and the law also grants them certain powers which they exercise over their members, while also protecting public interest. These powers are not considered 'private' (i.e. exercised on the basis of a contractual consensus), but as public powers affecting certain public rights and obligations. The procedure for exercising public authority (particularly decision-making) in this context is similar to that of a State administration.

For example, according to Act No.111/1998 Coll., on Universities, (public) universities decide on the rights and obligations of their students in the matter of expulsion from studies (and similarly in some other matters, such as provision of scholarships or deciding on disciplinary offences, etc.), which directly affects the constitutionally-guaranteed right to education (Article 33 of the Charter of Fundamental Rights and Freedoms), which is of a distinct nature of public law. Procedurally, this decision is governed by the provisions of Administrative Procedure Code. However, non-territorial self-governments, as 'exercisers' of public authority, are not always reflected by the legislator. In particular, the liability for damage caused by the performance of public authorities is not developed in relation to this level of self-government.

The Administrative Procedure Code also states that bodies other than State administration and self-government bodies may act as administrative authorities. It states, in the provisions of Section 1(1), that it regulates the procedure of executive authorities, bodies of territorial self-government units (i.e. municipalities or regions) and other bodies, legal persons and natural persons when they exercise competence in the field of public administration (which are hereinafter collectively referred to by the term 'administrative authority'). Therefore, an administrative authority may also be 'other authorities' and in some cases legal or natural persons, if they have been granted the corresponding status (directly) by law or (indirectly) by an appropriate authorisation; one of the examples is the aforementioned (public) universities. However, natural persons exercising State administration may also have the status of an administrative body (e.g. game wardens).

5. Current challenges in the Czech context

The organization of public administration in the Czech Republic is relatively complicated, since it is based on the previously mentioned mixed model, the foundations of which were established in the 19th century. Under this model, the functioning of municipal and regional authorities is essential for the proper functioning of the State administration (as they ensure not only the exercise of self-government but also the exercise of State administration in so-called delegated competence). The State administration cannot perform various essential agendas without the municipal and regional levels.

The extremely high number of municipalities has led to the purposeful creation of three types of municipalities with different levels of competence in the field of State

administration in order to ensure the proper performance of the delegated competence in the field of State administration. This has led to a relatively high number of officials and exorbitance of the entire system, which was intended to bring public administration closer to citizens. This also raises problems in that it is not always easy to distinguish whether a given area belongs to self-government or State administration. From the citizens' point of view, the mayor of a municipality is responsible not only for the performance of local governments, but also the State administration. Therefore, citizens may not perceive the difference between what the municipality's own competence is and what is entrusted to the municipality by the State to perform within its competence. However, this is not always correctly perceived by self-government officials, and they (sometimes) tend to influence the performance of the State administration.

Another persistent problem with the Czech public administration is the high, if not excessive, number of municipalities, which leads to an exorbitant and sometimes cumbersome local self-government system;[46] however, there seems to be no solution in sight. Reducing the number of municipalities was one of the recommendations of the government's advisory body (the National Economic Council of the Government) with regard to reducing public costs.[47] An eventual solution, however, is not simple, as it can encounter political constraints as well as the already granted right to self-government of local self-government units (which include all municipalities, even the smallest ones). For this reason, it does not seem realistic that the number of municipalities in the Czech Republic will be reduced through legislative reforms in the coming years. Nevertheless, some progress has been made on the basis of creation of new legal institutes facilitating (voluntary) cooperation between municipalities.[48] However, it is unclear whether this solution will sufficiently reduce the associated inefficiency.

46 Svoboda and Skulová, 2023, pp. 155–166.

47 See: https://vlada.gov.cz/assets/media-centrum/aktualne/Navrhy-NERV-na-snizeni-vydaju-a-zvyseni-prijmu.pdf (Accessed: 2 October 2024).

48 A recent amendment to the Municipalities Act (effective from 1 January 2024) introduced the 'Community of Municipalities', which is a special association of municipalities whose purpose is to ensure the coordination of public services in the territory of the member municipalities and the strategic development of this territory.

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