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LEGAL STATUS AND ACTIVITIES OF BODIES AUTHORISED TO IMPOSE FINANCIAL ADMINISTRATIVE SANCTIONS

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Abstract. The existence of a system of financial liability measures is a common occurrence in market economies. Despite their considerable motivational potential, financial administrative sanctions constitute a significant interference with human rights. Consequently, their application should be justified and balanced. The present article focuses on the powers of the authorities that apply financial administrative sanctions, as well as the procedure for exercising these powers. The authors identify the legal sources that establish these powers. The paper also considers the involvement of the courts in the system of imposing financial administrative sanctions. The problem of combining the functions of investigation and enforcement in one body is discussed. The authors elucidate the issue of the extent of court intervention in an administrative act on imposition of a financial sanction. The research outlines the approaches to determining the limits of the discretionary powers of the subjects of financial administrative sanctions. The study identifies the range of human rights guarantees that should be provided by the authorities when considering cases for the imposition of financial sanctions. The article highlights the extent of possible interference with human rights during the gathering of evidence that forms the basis for a decision to impose an administrative fine. The authors further posit that the implementation of oral hearings in cases where an individual pleads not guilty holds considerable promise for enhancing the efficacy of administrative financial sanction bodies. The paper examines the issue of the motivation of the decisions taken, including the choice of the amount of the fine. The contributors argue that a decision to impose a fine cannot be enforced immediately and that an appeal should always suspend its enforcement. The present study is founded upon a thoroughgoing investigation of doctrinal sources, and is of a theoretical nature. The conclusions contained in the article may be used to improve legislation and law enforcement practice, and may also form the basis for further research.

Keywords: administrative sanction, administrative proceedings, administrative act, motivation of an administrative act, evidence, right to defence, sanctioning power, subject of authority, judicial control, financial liability.

JEL Classification: K23, K42, H27

1. Introduction

The degree to which public law norms are adhered to is contingent not solely on the equilibrium of legislation, but also on the efficacy of the authorities entrusted with the imposition of sanctions for transgressions. As Z. Fiala (2022) asserts, from the perspective of the obligated individual, the paramount concern is not the maximum fine stipulated by law for breach of duty, but rather the probability of sanction and the cognisance of the magnitude and modalities of the repercussions for the transgression. In the event of the law establishing a system of administrative sanctions, the authorities empowered to apply these sanctions must, firstly, ensure a proper and timely response to each known case of an offence, and secondly, respect the rights of persons subject to administrative sanctions. Achieving a balance of public and private interests is thus facilitated.

In a market economy, the imposition of monetary penalties by the state for violations of the rules governing the activities of business entities serves as an effective incentive for lawful behaviour on the part of such entities. Despite the fact that monetary penalties are also applied to individuals, the main

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recipients of financial administrative sanctions are entities engaged in economic (primarily entrepreneurial) activities. The implementation of these measures by the state is intended to ensure proper payment discipline in the field of taxation, to protect economic competition and consumer rights, and to encourage compliance with licensing, standardisation and production safety requirements. Moreover, the financial proceeds from sanctions represent a significant revenue stream for state budgets. Consequently, advanced market economies characteristically possess a sophisticated system of financial sanctions.

Nevertheless, financial administrative sanctions have received insufficient attention in legal scholarship. The prevailing assumption is that administrative sanctions are less severe than criminal sanctions, although this is not universally valid. The legal regulation of financial administrative sanctions is generally difficult to systematise due to the large number of state bodies authorised to impose these sanctions. The activities of these bodies remain under-researched, yet it is acknowledged that the consequences of their work impact not only compliance with the law, but also human rights. The application of significant financial sanctions, if not justified, has the potential to inflict considerable harm upon the economy, impede the investment climate, and contribute to the proliferation of the shadow economy. Consequently, the implementation of such sanctions must be balanced and scientifically substantiated.

The motivation of states to broaden the scope of financial sanctions is a rational one. These sanctions are administered expeditiously and extralegally. Typically, the authority that detects and records the fact of a violation is also the authority that imposes a financial sanction. However, this combination of functions also poses a risk of potential abuse of financial responsibility. Consequently, there is a necessity to study and improve the activities of these authorities in order to improve the level of human rights compliance when deciding on the application of financial administrative sanctions.

The objective of the present study is threefold: firstly, to ascertain which acts establish the powers of the bodies imposing administrative financial sanctions and to whom these powers belong; secondly, to determine the nature of the relationship between the body imposing an administrative financial sanction and the court; thirdly, to clarify the limits of court intervention in an administrative act on imposing a financial sanction; fourthly, to clarify the general principles on which the activities of the authorities authorised to impose financial administrative sanctions should be based; and finally, to characterise the guarantees which should be ensured.

2. Status of Subjects of Financial Administrative Sanctions

The legal status of a subject in legal relations is defined by a set of rights and obligations. In the case of a public authority, in lieu of rights and obligations, it is endowed with powers, which represent a combination of rights and obligations. These powers are embedded within the foundational legal sources. It is acknowledged that the primary source of law for the states of the continental legal family is a legal act. The public law provisions contained in these acts usually contain an exhaustive list of the powers of a given authority (official), as well as the limits and manner of exercising these powers. One of these powers is to impose financial administrative sanctions on natural or legal persons who have infringed public law. As a rule, such powers are vested in not one but several executive authorities, whose competence is limited by the criterion of the areas in which each of these authorities implements state policy. In some cases, their powers may be delegated to other bodies, such as local government bodies.

The legal status of public authorities authorised to impose financial administrative sanctions is enshrined in the constitutional and legislative acts of states. According to R.F.G. González, the constitutional consolidation of sanctioning powers constitutes an exception, with the regulation of such powers being delegated to the level of laws. Concomitantly, the scientist accentuates the significance of constitutional consolidation of the limits that the legislator must adhere to in the legal regulation of sanction powers (González, 2020). It is acknowledged that the consolidation of corpus delicti, types and amounts of penalties does not arise from constitutional acts; rather, the fundamental laws of states establish the general principles of legal liability, which should be applied when bringing to financial responsibility.

The constitutional courts of some countries consider that the application of sanctions is the exclusive competence of the court. As an example, see the article by P. Soto Delgado, which discusses the decision of the Constitutional Court of the Republic of Chile to repeal the law that gave the Consumer Protection Agency the right to impose administrative sanctions. The Constitutional Court stated that sanctions can only be imposed by an independent and impartial tribunal, and that the agency is not impartial because it is both a "judge" and a "party". However, P. Soto Delgado posits that the imposition of sanctions does not constitute the exclusive purview of the judiciary. He further asserts that the activities of an administrative body are not synonymous with those of a court, as the latter is subject to the jurisdiction of the former. The scholar also cites the practice of the

US Supreme Court, which noted that state officials should be presumed to be impartial until proven otherwise (Soto Delgado, 2018). It is important to note that in instances where sanctions are imposed by judicial bodies, they no longer fall under the category of administrative measures. The primary criterion that distinguishes administrative sanctions from others is the fact that they are applied by public administration entities, that is to say, outside the context of a courtroom.

However, it should be noted that not all scholars concur with the notion that administrative sanctions can exclusively be enforced extrajudicially. Ye. Ustymenko distinguishes between two types of administrative law proceedings for the imposition of administrative sanctions: the first is the imposition of sanctions in administrative proceedings, and the second is the imposition of administrative sanctions in administrative-judicial proceedings. The latter is distinguished by the fact that the decision to impose sanctions is made, authorised or agreed by an administrative court (Ustymenko, 2016, 167). Concomitantly, the primary focus is not on the implementation of financial sanctions, but rather on the application of measures aimed at the cessation of violations of public law norms (e.g., the cessation of a production process that poses a threat to environmental safety).

At the present stage, states establish a significant number of public law norms, the effect of which is ensured by measures of financial responsibility. Primarily, the focus is on economic activity, as its implementation necessitates a substantially higher level of legal regulation than that which is required for the life of individuals. The aforementioned regulatory framework encompasses institutions such as licensing, taxation, the supervision and control of economic activity, the licensing system, antitrust regulation, consumer protection, labour protection, investor protection, and customs control, among others. The maintenance of law and order in economic activity is ensured by a system of penalties (financial sanctions) applied on behalf of the state. In order to ensure a prompt and professional response to offences, states empower their authorities to impose financial administrative sanctions.

Some researchers, while generally agreeing with the possibility of out-of-court sanctions, stress the need to separate the functions of investigation and decision-making. An example is the article by D. Marković-Bajalović (2022), who argues that these functions should be separated in the creation of a new EU competition authority. However, the separation of these functions is not always feasible in practice, as it would require the creation of two state bodies with the same scope of competence, which is unjustified from the point of view of budget financing of the state apparatus. A partial implementation of this model can be achieved through the distribution of control and sanctioning powers among different structural units of a single body.

Concurrently, the inherent disadvantage of the administrative sanctions system, namely the consolidation of prosecuting and penalising authorities within a single entity, ought to be counterbalanced by the assurance of a right to judicial review of financial administrative sanctions. In general, there is a consensus in the legal doctrine on the possibility of judicial review of acts imposing administrative sanctions. It is based, in particular, on the case law of the European Court of Human Rights. It is therefore accurate to state, as P. Majka (2020) rightly observes, that the limit of regulation of sanctions procedures at the level of international law and the law of the European Union is the obligation to guarantee the right to a fair trial. Such a judicial procedure should be accompanied by the obligation of the authority that imposed the financial administrative sanction to prove that the actions of the person who applied to the court constituted an offence, as well as that the amount of the sanction imposed was proportionate to the gravity of the offence.

Concurrently, a discourse is ongoing regarding the extent to which the court should intervene in administrative acts. For instance, P. Harris Moya, who studies judicial review of decisions to impose fines for breaches of sanitary legislation, points out that the limits of judicial review can be procedural and substantive. Specifically, the procedural limitation pertains to the court's capacity to cancel an administrative act, but not to amend it. The substantive limitation, in turn, is related to the procedural one and means that the court does not control the proportionality of the fines imposed, but only their legality (Harris Moya, 2022). It is important to acknowledge that administrative authorities, when implementing financial sanctions, cannot be regarded as "accountable" to the courts. This is because the judicial procedure is founded on the applicant principle and is only invoked when the individual subject to the sanction contests the decision to impose it. Furthermore, judicial intervention is typically only possible subsequent to the adoption of an administrative act, as the procedure preceding the adoption of an administrative act itself generally does not violate any rights. The court is prohibited from exacerbating the legal position of the individual who has appealed against the financial sanction. Furthermore, the court is precluded from validating the legality of the administrative act by circumstances that the authority itself did not justify its decision. The extent to which the court may intervene in an administrative act (in particular, whether the court is limited or unlimited by the plaintiff's arguments;

whether or not the court's control extends to the proportionality of the amount of the financial sanction) depends on the national legislation of a particular state.

3. Activities of Entities Applying Financial Administrative Sanctions

The system of financial administrative sanctions is characterised by two key features. Firstly, it provides a comprehensive list of enforcement authorities and their respective powers. Secondly, it establishes a set of regulations that govern the activities of these entities. Consequently, the administrative-legal status of such bodies should be studied not only in statics, but also in dynamics. Primarily, the question that must be posed is that of the limits of the authority of the body that has the competence to impose sanctions. Within the domain of legal science, a discourse has emerged concerning the permissibility of discretionary powers to determine a specific amount of penalty. According to N. Jílková, the authority of public administration to determine the guilt and punishment of an offence is contingent on the discretion of the administrative authority to impose a fair and proportionate administrative sanction, that is to say, the choice of the type and limit of such sanction. An analysis of Czech legislation reveals that the aggravating and mitigating circumstances delineated in the Offences Act are largely inapplicable to the majority of cases. This is due to the extensive diversity of offences, which renders it practically impossible to account for the typical circumstances stipulated within the legal framework. Therefore, the researcher considers it necessary to remove these exemplary lists from the Law on Offences and leave the assessment of aggravating and mitigating circumstances to the discretion of the administrative authority in a particular case (Jílková, 2018). The question of the discretion of administrative authorities in the application of financial sanctions cannot be answered unambiguously and in an "extreme" way. Ultimately, both of these positions represent a complete repudiation of discretion, as well as an unbridled exercise of it. It is evident that both of these positions carry with them a substantial risk to human rights.

It can thus be concluded that the state establishing a single penalty option for public authorities to implement, namely the application of a specific amount to offenders, will inevitably result in the failure to account for crucial considerations. Such considerations encompass the severity of the infraction, the offender's property status, and other pertinent material circumstances. Furthermore, by establishing a significant disparity between the upper and lower limits of the penalty, and by failing to establish clear criteria for determining the amount of the financial sanction, the state will indirectly encourage public authorities to impose the maximum penalty. The authors posit that a "middle" option is appropriate in circumstances where the authorities are granted limited discretion and the selection of punishment is contingent upon criteria that can be unambiguously defined. This approach ensures both legal certainty for the individual, enabling them to anticipate the consequences of their actions, and the possibility of subsequent judicial scrutiny of the decision-making process. To a certain extent, such criteria are formed in legal doctrine. As R. Melnyk and V. Bevzenko, when exercising discretionary powers, the subject of public administration pursues only the purpose for which such powers have been vested in it; observes the principle of objectivity and impartiality, taking into account only factors relating to the particular case; observes the principle of equality before the law, avoiding unfair discrimination; ensures that a fair balance is struck between the adverse consequences of its decision on the rights, freedoms or interests of individuals and the objective pursued; takes its decision within a time limit which is reasonable in the context of the matter to be resolved; ensures consistency in the application of general administrative rules, taking into account the specific circumstances of each case (Melnyk, Bevzenko, 2014, 278-280).

In the context of the general principles that govern the activities of the body authorised to impose financial administrative sanctions, there is a predominant view within the field of legal science that such a body is obligated to adhere to procedural procedures and guarantees, as well as substantive legal principles enshrined in criminal law (Moura, 2021). A compelling justification for this perspective is the considerable severity of administrative sanctions, which, in some respects, approximate the severity of criminal sanctions. As a case in point, Inma Valeije Álvarez's article cites administrative sanctions for illegal, unregistered and unregulated fishing under the laws of the Kingdom of Spain. As Inma Valeije Álvarez observes, the severity of certain additional sanctions approaches that of criminal sanctions. However, the standard of proof employed in the application of these sanctions is more appropriate for administrative proceedings, which provide a lesser degree of guarantees than in a criminal case. In consideration of the jurisprudence of the European Court of Human Rights (ECHR), the scholar posits that, in the long term, the Spanish model of administrative sanctions will encounter the procedural and substantive guarantees applied by the ECHR in criminal proceedings (Inma Valeije Álvarez, 2023).

The authors posit that the level of detail in the law of procedures and guarantees aimed at protecting the rights of a person subject to a financial administrative penalty should depend on whether the proceedings meet the criteria of "criminal" set out in the ECHR

judgments. For the purposes of illustration, reference is made to the judgment in Nadtochiy v. Ukraine, which concerned the imposition of a pecuniary sanction on the applicant for violation of customs regulations. The European Court of Human Rights (ECtHR) observed that the customs offences under consideration exhibited the characteristics of a "criminal charge". This is due to the fact that the provisions of the Customs Code of Ukraine are directly applicable to all citizens crossing the border and regulate their behaviour by means of sanctions (fines and confiscation), which serve both as punishment and as a deterrent to violation (Nadtochiy v. Ukraine, 2008).

In instances where the legal provisions that have been violated are of a general nature, and the imposed penalties are intended for punitive or preventive purposes, the guarantees provided to the individual undergoing legal proceedings for the application of such sanctions should align more closely with the guarantees inherent in criminal procedural law. Furthermore, when determining the scope and content of these guarantees, the severity of the liability measure should also be taken into account, since it is financial sanctions. In such cases, the degree of potential impact of such sanctions on the person's property status and the ability to continue to carry out business activities (if the sanction is imposed on a business entity) should be taken into account.

It is widely acknowledged that the right to defence constitutes a fundamental guarantee within the paradigm of the rule of law in criminal proceedings. A salient distinction between administrative sanctions and criminal sanctions pertains to the fact that administrative sanctions are ordinarily imposed by an entity that concurrently fulfils the roles of a prosecuting authority and an adjudicating body. In such circumstances, the right to defence assumes particular significance. The validity of this assertion is further substantiated by the findings of a scientific study undertaken by J.C.C. Rocha, which examined the right to defence in the context of sanctions imposed for tax offences under the legislation of the Republic of Peru. The study's findings, as outlined in the article, concluded that the authority to impose penalties is inherently repressive in nature, and that the exercise of such powers should be conducted within the framework of the established legal procedure. The fundamental rights of the accused must be guaranteed, and the procedure must provide for the possibility of a fair trial and the possibility of appeal if the sanction imposed would have a serious effect on the fundamental rights of the accused (Rocha, 2022). The right to a defence is predicated on the principle of due process, which is defined as the right of the accused to learn about the charges against them before a financial sanction is imposed. In other words, the imposition of such sanctions should not be automatic, and the individual should be informed in advance of the charges and the evidence on which they are based. Furthermore, it is imperative that the individual comprehends the legal terminology employed in the charges.

The procedure by which public authorities impose financial administrative sanctions on persons is an interventionist administrative proceeding. The outcome of such proceedings has a direct impact on the rights and obligations of an individual or legal entity. Consequently, any individual or legal entity subject to the imposition of such an administrative sanction must be guaranteed the observance of their rights. As E.B. Scheuermann observes in his article, these are the minimum guarantees aimed at adopting reasonable administrative acts. Such minimum guarantees include the following: prior and accurate notification of the charges; the right to know, demand and participate in the process of proof; and the right to appeal against the decision to impose a penalty in court (Scheuermann, 2021). Furthermore, a temporal gap must be observed between the submission of charges and the hearing of the financial sanction case, ensuring sufficient time for the individual to formulate a defence strategy, ascertain their position on the charges, collect and present evidence to support this position, and, if necessary, to present their position in writing. The body considering the case for the imposition of a financial sanction shall be impartial and shall not disregard circumstances known to it which exclude the existence of an offence or the guilt of the person in its commission, nor shall it disregard circumstances which improve the legal position of the person. The person against whom the case is being considered shall have the right to be heard, which shall include the opportunity to submit written explanations and, in the case of an oral hearing, to present explanations at the oral hearing and to participate in the examination of evidence. A fundamental component of the right to defence is the entitlement of an individual to obtain legal representation from a licensed attorney or other legal professional, as stipulated by the relevant state's legal framework. Any failure by the relevant authority to accept explanations or evidence from such a representative, to allow said representative to participate in the examination of evidence, or to hear their position during oral hearings, should be recognised as gross violations of the right to defence. Such violations would entail the cancellation of the decision to impose a financial administrative sanction.

The interconnectedness of criminal and administrative sanctions as components of a unified system of public law sanctions is exemplified by the utilisation of evidence obtained during criminal proceedings when determining the imposition of an administrative

sanction on an individual by public authorities. Simultaneously, this method of gathering evidence inevitably raises the question of the proportionality of the interference with human rights. In a state governed by the rule of law, it is generally accepted that covert investigative actions, searches and other significant interference with human rights are permissible for the purpose of gathering evidence in criminal proceedings, but not in proceedings for the imposition of administrative sanctions. As A.S. Egaña observes in his article, the use of evidence obtained in criminal proceedings as evidence of the prosecution in the procedure for imposing an administrative sanction is possible only in respect of evidence obtained in a non-intrusive manner; furthermore, a request for such evidence may only be made when the requested information is not secret. The scholar also posits the notion that judicial bodies should deliberate on the prospect that the authority might have procured the aforementioned information through the exercise of its administrative prerogatives, thereby obviating the necessity for investigative measures or criminal proceedings (Egaña, 2022). Furthermore, it is this author's opinion that the utilisation of evidence collected in criminal proceedings should be contingent upon a finding of guilt in a criminal case. Conversely, if the criminal proceedings were investigated exclusively for the purpose of collecting evidence for the application of administrative sanctions, this could constitute a disproportionate interference with human rights.

Furthermore, in instances where an administrative body imposing a financial sanction is tasked with the adjudication of cases based on complaints from victims (for instance, an antimonopoly authority), one of the fundamental principles guiding the body's operations is that of an adversarial process. This principle is further elaborated in the article by D. Marković-Bajalović, who emphasises that the absence of the defendant company's right to cross-examine witnesses during hearings at the European Commission undermines the principle of competition in proceedings before the Commission (Marković-Bajalović, 2022). Concurrently, the efficacy of the adversarial principle in proceedings for the imposition of financial administrative sanctions is constrained, given that such sanctions are predominantly imposed for violations of public law rules, when the public interest is transgressed and there is no victim. Additionally, the adversarial principle cannot be applied in cases where the control and enforcement authorities are the same; its absence at the stage of the imposition of an administrative sanction is compensated for by the full jurisdiction of the courts over decisions to impose such sanctions.

4. Discussion

The conclusion that the court is not subject to administrative sanctions, on account of the fundamental nature of such sanctions, should be given general support. Concurrently, legislative frameworks may be configured to establish a procedural framework for administrative authorities to attain judicial legitimation for their decisions to impose financial sanctions. This process is initiated through the filing of a lawsuit by the administrative authority seeking to recover the financial sanction believed to be due from the defendant. However, it should be noted that such cases differ from criminal proceedings in that the court does not find a person guilty, but rather ascertains whether the defendant is obliged to pay the fine to the budget on its own. In the event that such an obligation exists and the defendant fails to fulfil it, the unpaid amount of the fine is collected from the defendant. Consequently, even under this model, the court does not impose an administrative sanction, but rather ascertains whether there are grounds for its payment, thereby exercising preliminary judicial control (whereas in the majority of cases, it is subsequent judicial control that is exercised).

A promising area for improving the activities of administrative authorities imposing financial sanctions is the introduction of oral hearings in cases where the person against whom the sanction may be imposed does not admit guilt. Such oral hearings should be held in a collegial manner with the participation of the management of the sanctioning authority and the persons who conducted the inspection and drew up the act (protocol) on which the case is based. The use of audio or video recordings of such hearings will prevent many violations of the administrative sanction procedure and make further appeals against the decision more predictable.

A pivotal element in the enforcement of financial administrative sanctions, as well as the imposition of human rights, is the judicious articulation of the decision-making process by the relevant authority. The motivational aspect of such a decision must be able to convince an objective observer that the individual has committed an offence. This reasoning must encompass not only the specific legal provision violated, but also a detailed account of the circumstances surrounding the violation and the substantiating evidence. If the person does not admit his or her guilt, the decision to impose a sanction shall state the reasons for rejecting the person's arguments. If the amount of the fine is not fixed, the decision must also state the reasons for the decision, together with any mitigating and aggravating circumstances and other facts that may affect the amount of the fine, in accordance with the law.

A promising area of research is the determination of the moment at which an administrative act imposing a financial sanction takes effect. It is the contention of the present study that such an act cannot enter into force immediately, and that an appeal against the act should suspend its implementation. Conversely, the latter approach is predicated on the assumption that the applicant must initiate interim measures in court to secure the administrative claim by suspending the act. This approach, however, is likely to reduce the effectiveness of the procedure for challenging the act. It is also well known that, in order for such measures to be taken, the applicant must prove that there is a serious risk that his rights will be infringed if such measures are not taken, i.e., the burden of proof is on the applicant. In order to redress the imbalance between the public interest and the rights of the person subject to a financial penalty, decisions imposing financial penalties should be suspended for the duration of the appeal against such decisions. This will also prevent abuse by the authorities, encourage applicants to appeal in good time against decisions with which they disagree and promote legal certainty.

5. Conclusions

The power to impose financial administrative sanctions is usually enshrined in law. These powers are generally vested in executive authorities depending on their competence, but may also be delegated to other entities. Combining the functions of investigation and imposition of penalties in one body is a "natural disadvantage" of administrative sanctions, which can be partially eliminated by dividing the functions between different structural units of the same state body. Bodies that apply financial administrative sanctions are independent and cannot be considered "accountable" to the courts. At the same time, in a state governed by the rule of law, any person subject to a financial administrative sanction should have the right to appeal to a court against such a sanction. The limits of judicial intervention in an administrative act may vary according to the specificities of national legislation. It is important to acknowledge the progressive nature of the court's oversight, which extends beyond the validation of the decision to impose a financial administrative sanction, to include the assessment of its proportionality, even in instances where the authority has adhered to the stipulated legal limit.

Having examined the dynamics of the work of the bodies that impose financial administrative sanctions, it is important to note that their activities should be accompanied by the provision of sufficient guarantees for the respect of the rights of the person held liable. The extent to which these guarantees are similar to criminal procedural guarantees depends on the general nature of the provisions of the legislation under which the sanction is imposed, the preventive or punitive nature of the sanctions, and the severity of the sanction imposed on the offender. The body imposing financial administrative sanctions must guarantee the right of defence of the person concerned, in particular the right to be informed in advance of the content of the accusation, the right to present and prove one's point of view and the right to participate in the examination of evidence. In addition, the right to legal assistance should be guaranteed in the application of administrative financial sanctions. The authority imposing financial administrative sanctions should refrain from disproportionate interference with human rights; in particular, it should be made impossible to use evidence obtained in criminal proceedings as a result of such interference with human rights as is permissible only for the purpose of solving criminal offences.

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