

RODEAS: Rule of law, Due Process, and Effectivity in Administrative Sanctioning

1. Excellence

1.1 *State of the art, knowledge needs and project objectives*

State of the Art: Administrative sanctions are restrictive measures typically imposed on corporate entities by administrative bodies rather than courts in response to violations of regulatory obligations. Whether in the form of fines or other restrictive measures, they intend to enforce compliance, deter misconduct, and protect the public interest without resorting to criminal prosecution. Having traditionally played a limited role, administrative sanctioning has expanded dramatically over recent decades across Norwegian and European legal systems, from a limited tool within traditional domains to a governance instrument affecting large segments of society, often through EU law.¹ This development spans a broad range of areas of law such as taxation, competition, securities, anti-money laundering, environment and sustainability, and data protection.² A wealth of practice exists and has grown exponentially the last decades.³

A commonly cited justification for administrative sanctioning as opposed to criminal punishment is the ambition to increase sanctioning efficiency and effectiveness (effectivity for short). Administrative sanctions are thought better suited for achieving regulatory goals without becoming mired in criminal law proceedings,⁴ which are more costly and time consuming. Administrative sanctions are also seen as morally neutral, avoiding some of the stigma and moral censure associated with criminal punishment. Yet, avoidance of moral stigma is not necessarily reconcilable with very large administrative fines imposed for unlawful conduct.⁵ Many administrative sanctions are also ‘criminal’ in the sense of the European Convention on Human Rights (ECHR) and the EU Charter of Fundamental Rights (CFR) (*Engel* doctrine).⁶

Indeed, § 43(2) of the Public Administration Act (*forvaltningsloven*, PPA) reserves “administrative sanction” for restrictive measures seen as ‘criminal’ under the *Engel* doctrine. This entails procedural and other safeguards otherwise ascribed to criminal punishment, even if they “do not necessarily apply with their full stringency” (*Jussila* doctrine).⁷

Some justifications are rooted in aggregate societal interests, others in administrative resource expenditure, and some derive from the interests of those sanctioned. Overall, there are unresolved and underexplored tensions between the posited aims of administrative sanctioning and the current trajectory of legal development, in terms of usage, conceptual awareness, and procedural, institutional and substantive legal guarantees. This calls for a holistic reassessment of administrative sanctions

¹ See, e.g., Haaland 2025.

² See, e.g., Jansen 2013.

³ See, e.g., Book Mohn 2023.

⁴ See, e.g., Prop. 62 L (2015-2016) *Endringer i forvaltningsloven mv. (administrative sanksjoner mv.)*.

⁵ In 2023, for instance, Norway’s data protection authorities fined Grindr LLC NOK 65 000 000 for violating GDPR. For example, the Norwegian Competition Authority in 2024 imposed a fine on the largest Norwegian grocery chains of 4.9 billion NOK (upheld by the appellate body in 2025).

⁶ *Engel and Others v. Netherlands* [Plenary], no. 5100/71, judgment 8 June 1976 by European Court of Human Rights (ECtHR), approach integrated in EU fundamental rights law (CFR) by European Court of Justice (CJEU).

⁷ *Jussila v. Finland* [GC], no. 73053/01, judgment 23 November 2006, also adopted by the CJEU. See e.g. Andrijauskaite 2022 with further consideration on *Engel* and *Jussila* doctrines.

having regard to various benchmarks reflecting the values of the rule of law, due process, and effectivity.⁸ Within the confines of the present call for applications – directly relevant for the “challenges regarding the rule of law” and “crime challenges” thematic areas set forth in the call – that reassessment cannot be all-encompassing but must converge around select issues. They are considered further below.

Knowledge gaps: A widespread social practice in our time, administrative sanctioning has received limited academic attention. Norwegian legal scholarship is scarce, of modest ambition, and not up to date.⁹ Norwegian law’s logic in the field essentially still rests on a 2003 report.¹⁰ Nordic scholarship is constrained, yet the project will liaise with The Academy of Finland’s 2023-2007 SYSADMIN project.¹¹ German law has developed specialised administrative sanctioning law (*Ordnungswidrigkeitsrecht*).¹² Academic scholarship on the level of EU law is valuable, but limited.¹³ No academic output yet results from a project encompassing the perspectives above, from the vantage point of Norwegian law, combining empirical, doctrinal, and analytical research to develop a framework for present needs.¹⁴

While administrative sanctions constitute a distinct category, most share traits and functions with criminal punishment. This interplay creates inherent challenges. The concept’s very variability triggers need for added attention and academic rigour. Using procedural ECHR guarantees as reference point is reductive as it excludes administrative sanctions not regarded as ‘criminal’ but also other procedural and substantive legal constraints on administrative sanctioning, including in EU/EEA law. The justifications for administrative sanctions, including their effectivity and moral neutrality, needs revisiting. Decades of implementation provide an opportunity to reassess the very concept and its legal framework. An extensive body of evidence in terms of Norwegian legislation and administrative practice is largely unexplored, as sanctioning bodies’ practice archives are not fully publicly available.

Present knowledge gaps as these are not limited to Norway; they are found across Europe.¹⁵ If tensions go unaddressed, administrative sanctioning risks falling between two conceptual and normative frameworks, those of ordinary administrative and criminal proceedings, meaning that those

⁸ The project build on principles already developed, such as the Pan-European General Principles on Administrative Sanctions based on Council of Europe Recommendation No. R(91)1, by the Research Network on EU Administrative Law (ReNEUAL). See further Stelkens and Andrijauskaite 2020.

⁹ Two treaties stand out: Berg 2005, and Stub 2011. Aspects are treated elsewhere, see, e.g., Boucht and Emberland 2024 and 2025. The effectiveness of sanctioning is currently analysed from an economist vantage point by Samfunnsøkonomisk Analyse AS, having been awarded a public call by the Norwegian Ministry of Justice and Public Security in 2024 (no results from study yet public).

¹⁰ NOU 2003: 15 *Fra bot til bedring. Et mer nyansert og effektivt sanksjonssystem med mindre bruk av straff* drawn up by government appointed commission. As subsequent preparatory works testify, the report has in effect permeated legislative initiatives, including the recently adopted Public Administration Act of 2025 (not yet in force).

¹¹ SYSADMIN: Towards a fairer and more coherent system of administrative sanctions, University of Lapland Faculty of Law 2023- 2027. See also Asp 1998; Henrichsen and Pagh 2015; Halila et al. 2018; and Lankinen 2020.

¹² For introductions see, e.g., Mitsch 2009.

¹³ See, e.g., Sand-Henriksen 2023; Montaldo 2021; Franssen and Harding 2022.

¹⁴ The development of guidelines has thus far been done through inter-governmental or other, non-academic, initiatives.

¹⁵ See, e.g., Luchtman et al. 2023; Kärner 2022; and Weynbergh and Joncheray 2016.

subject to sanctions benefit not fully from neither. This is problematic from perspectives of rule of law and due process. A holistic and evidence-driven examination of the motivation for the expansion of administrative sanctions is called for, examining ontological, substantive, procedural, and institutional aspects. Systematisation of normative forces is needed for setting benchmarks to understand and assess effectivity. Knowledge of administrative sanctioning practice across societal sectors – empirically as well as doctrinally – is essential for conceptualisation and viability assessments of direct use for legislators, supervisory bodies, and those subject to it. These questions clearly demand research funding, given the very extensive use of administrative sanctioning at present, enacted and implemented without solid scientific basis.

Project objectives: RODEAS' overarching objective is to establish a uniform and coherent legal framework within which Norwegian administrative sanctioning can operate. This will be achieved through four secondary objectives:

1. *Clarifying the concept of 'administrative sanctions' (see WP1)*
2. *Developing general principles of substantive administrative sanctioning law and its interpretation (see WP2)*
3. *Exploring procedural and institutional norms pertaining to administrative sanctions (see WP3)*
4. *Developing a structure for proportionate sanctioning implementation (see WP 4).*

1.2 Research question, theoretical approach, and methodology

Research questions. The research questions are distributed through four work packages (WPs). Computational analysis using the *S2-data* research tool (more below) on the complete archives from three relevant supervisory bodies will be an empirical prerequisite for successful analyses under them.

WP1) The concept of 'administrative sanctions'. To enable analyses in WPs 2-4, and legislative action, the legal nature of administrative sanctions and of different kinds of sanctions must be duly analysed. A coherent theoretical understanding lacks presently. WP1 will look at this:

i) *What is an administrative sanction?* In criminal law theory, punishment is characterised by two elements: communicative censure and hard treatment.¹⁶ In current discourse, administrative sanctions are distinct from punishment by imposing lesser stigma (allegedly), thus possessing a weaker communicative element, focusing on hard treatment. Most administrative sanctions are however imposed due to a violation of a legal norm, and the deterrent underpinning them is unambiguous;¹⁷ both features typical of a penal regime. In fact, an important criterion in the *Engel* doctrine is whether the

¹⁶ See, e.g., von Hirsch 1993.

¹⁷ See Prop. 62 L (2015-2016) *Endringer i forvaltningsloven mv. (administrative sanksjoner mv.)* p. 43. Korkka-Knuts and Melander 2025 p. 38 note: "The influence of the economic deterrence paradigm is especially clear in the context of EU competition law, which builds on ... optimal deterrence achieved through combinations of level of the fines and probability of detection."

sanction has penal and deterrent purposes.¹⁸ Also, considering the potential magnitude of sanctions imposed, which may far exceed criminal fines, it may well be questioned how morally neutral they are.¹⁹ Yet, while many administrative sanctions in Norwegian law will amount to a criminal charge for *Engel*/ECHR purposes (see PPA § 43), they do not constitute punishment under the Norwegian Constitution.²⁰ Further, present legislation on restrictive administrative measures divulges hard cases from the viewpoint of the *Engel* doctrine; revisiting the typology from the 2003 report is due given changed sanctions and sanction severity.

ii) *Justifying administrative sanctions?* Justification of criminal punishment is twofold: to deter others from wrongdoing (general deterrence) and punish perpetrators for violating law (retribution).²¹ A similar coherent theoretical justification lacks for administrative sanctions. Lawmakers draw on several explanations, such as increased effectivity by imposing less stigma and enabling simpler processes while still unambiguously keeping general deterrence as a foundation. This blurs the distinction between sanctioning of unlawful conduct in penal and non-penal tracks. Clear and coherent principles guiding the functional relationship between administrative sanctions and criminal penalties – when should the administrative track be preferred to the criminal justice system – are also lacking. This ambiguity manifests itself in two ways: first, it makes the choice between administrative sanctions and criminal proceedings uninformed, and potentially arbitrary. For example, the prohibition against cartels is solely regulated and enforced in administrative competition law despite its similarities to corruption, sanctioned in criminal law. Second, it blurs the relationship between overlapping administrative and penal powers. For example, §§ 49 and 51 of the Money Laundering Act (*hvitvaskingsloven*) set forth that certain violations can be sanctioned by administrative fine or criminal punishment, but principles guiding the choice are unclear. The current understanding is that punishment should be used when administrative sanctions are not sufficient.²² Discretionary assessment guides this choice. Sometimes it is asserted that the *ultima ratio* (last resort) principle limits the use of criminal sanctions to necessary cases. This assessment requires empirical data, and such data would in many cases be unavailable. This dilemma also appears at EU level, commentators noting that EU law lacks a coherent theoretical foundation for the administrative/criminal divide, but that the choice between them is insufficiently informed by solid empirical evidence.²³ A hypothesis is that this ambiguity stems in part from insufficient understanding of underlying justifications of administrative sanctions vs. criminal sanctions. WP1 seeks to analyse the legal nature of the administrative sanctioning regime as situated in the intersection between criminal law punishment and purely restrictive measures; it seeks to clarify the relationship between punishment and administrative sanctions.²⁴ WP1 will assess justificatory bases for administrative sanctions by cross-referencing cited

¹⁸ See e.g. *Öztürk v. Germany*, no. 8544/79, judgment 21 February 1984; C-617/10, *Åklagaren v. Hans Åkerberg Fransson*, Grand Chamber judgment 26 February 2013.

¹⁹ As rightly pointed out by Korkka-Knuts and Melander p. 41: “A substantial administrative fine imposed for a human rights infringement in a corporation’s value chain can hardly be characterized as conveying a morally neutral tone.”

²⁰ See, e.g., Rt-2014-620.

²¹ See, e.g., Ashworth 2013; and Ot.prp. nr. 90 (2003-04) *Om lov om straff (straffeloven)*.

²² See NOU 2003: 15 *Fra bot til bedring*; Prop. 62 L (2015-2016) *Endringer i forvaltningsloven mv. (administrative sanksjoner mv.)*.

²³ Korkka-Knuts and Melander 2025 p. 37.

²⁴ See, e.g., Haaland 2025.

justifications with empirical findings from implementation (see below) and criminal and administrative theory.

WP2) General principles of administrative sanctions. Rudimentary general principles currently guide administrative liability, creating potential for inconsistent and opaque application. WP2 will draw on general principles of criminal law and analysing, in close interaction with WP1 and existing discourse on administrative sanctions, the unique nature and functional needs of administrative sanctioning balanced against sanctioning foreseeability. WP2 seeks to develop a refined conceptual framework guiding use of administrative sanction through work on:

i) *The Role of the Principle of Legality (PoL) in administrative sanctioning.* PoL's purpose in criminal law is to guard against imposition of arbitrary and unforeseeable punishment. PoL requires strict application based on the wording and that provisions are clearly worded. Norwegian administrative law accepts that PoL does not apply similarly in administrative sanctioning as in criminal proceedings.²⁵ However, where an administrative sanction is 'criminal' under ECHR Art. 6, it will also constitute penalty under Art. 7.²⁶ The PoL in Art. 7 should therefore also apply to administrative sanctions. The Norwegian Supreme Court has held that meaning of the PoL under Norwegian Constitution § 96 and ECHR Art. 7 is similar.²⁷ WP2 analyses the standing and meaning of PoL in administrative sanctioning, including this issue.

ii) *Grounds of justification.* A relevant justification will in criminal law make *prima facie* unlawful conduct lawful. Justifications include self-defence, necessity, and consent.²⁸ It is unclear whether they also play a role in administrative sanctioning. A person may have acted out of necessity (for example, due to a pressing need for violating the norm), or compliance becomes an issue (the company has sought to comply with the norm). There is a question whether, and if so, under which conditions this ought to remove or mitigate liability. PPA § 46(2)(c) stipulates that compliance is a consideration in determining whether to impose a sanction. It has been suggested that compliance ought to be a ground of justification regarding corporate criminal liability.²⁹ The ambition is to consider the relevance of justifications to administrative sanctions and to establish a consistent set of justifications that may exempt from liability.

iii) *The guilt principle in administrative sanctioning law.* In criminal law, the guilt principle means that only an individual who was able to act differently ought to be held criminally liable. The standing of this principle in administrative sanctioning is unclear. PPA § 46 establishes negligence as the general fault requirement but allows for deviation in sector-specific legislation. This raises several questions. Can administrative sanctions be imposed on objective grounds? Case law from the Supreme Court (HR-2021- 797-A) suggests that ECHR Art. 7 requires subjective fault as a prerequisite for imposing an administrative sanction. However, as suggested in the literature, this legal position is conceptually fraught.³⁰ Second, why should negligence be the standard fault requirement? Why not grade fault so

²⁵ See Prop. 62L (2015-2016).

²⁶ See, e.g., *Zolotukhin v. Russia* [GC], no. 14939/03, judgment 12 February 2009.

²⁷ Rt-2012-313 para. 29.

²⁸ See Andenæs 2016.

²⁹ See Knut Høivik 2021, 205.

³⁰ See Boucht and Emberland 2024.

that, for example, gross negligence, or even intention, is required in serious cases? Third, how can fault be established at corporate level? Corporate negligence and intent are much debated in criminal law.³¹ This aspect connects with WP4. Lastly, should there be general grounds of excuse, which exempt from or reduce liability based in absence of fault? For example, where a person acted out of excusable error of law, imposing liability may not be compatible with Art. 7.³² Moreover, the Tax Administration Act (*skatteforvaltningsloven*) § 14-3(2) stipulates specific grounds of excuse, such as illness, age and inexperience, according to which no tax surcharge will be imposed. The project queries whether this should apply generally.

iv) *Extending temporal and personal scope of liability: attempts and complicity.* In criminal law, rules on attempts and complicity extend liability beyond the perpetrator and the completed act. There is no firm understanding of whether administrative liability also is triggered by attempts to violate the law or by complicity. Why should a person who attempts to violate an administrative norm not risk liability, at least in more serious cases? The same would seem to apply to persons who aid and abet violations by third parties.

WP3) Exploring the procedural and institutional framework. While criminal liability is established in criminal proceedings, in which due consideration is had to the nature of criminal liability, Norway has no uniform institutional and procedural system in place for administrative sanctions, not even for those seen as ‘criminal’ following *Engel*. WP3 will present a consistent and differentiated analysis of the fundamental rights regime that ought to apply to administrative sanctions, duly considering the nature of sanctions in question. It will present advice for policy makers on how a sanctioning structure be institutionally framed to optimise protection of objectivity and fundamental rights. The analysis of sanctioning decisions provided by partners to the project (more below) will be highly relevant for this purpose, enabling assessment of the scope of legal uncertainty and potential effects flowing from it. WP3 will consider the following:

i) *Procedural safeguards.* A crucial concern is fundamental rights protection. It is a requirement under ECHR/CFR that imposition of sanctions normally requires access to public courts to assess their validity retrospectively.³³ Existing regulation varies however as to which cases will reach the courts. In some areas decisions are made within the structures of an ordinary administrative hierarchy, while in others they are made by specialised and independent supervisory bodies. Norway has no specialised administrative courts for administrative sanctioning.

The contrast to criminal sanctions is stark, where the Criminal Procedure Code (*straffeprosessloven*) provides clear directions, and where sentencing, as a main rule, is done by the public courts under the umbrella of an array of criminal procedural and substantive guarantees. Most administrative sanctions are imposed based on general principles of administrative law, including loosely formulated procedural guarantees (such as due advance notice, due investigation, etc.). Where administrative sanctions are ‘criminal’ for ECHR/CFR purposes, an additional set of procedural requirements apply due to *Engel*, but there is considerable uncertainty what the proper procedural standards are or indeed should be, in part because fundamental rights guidance is vague. The *Jussila* doctrine holds that procedural guarantees under ECHR Art. 6 “do not necessarily apply with their full stringency” in

³¹ For discussion and references, see Høivik 2011, 99-103, 112-118.

³² See Boucht and Emberland 2024.

³³ *A. Menarini Diagnostics Srl. v. Italy*, no. 43509/08, judgment 27 September 2011; similarly under CFR.

administrative proceedings. What does this mean as applied directly on each procedural guarantee? For example, how can the right to silence and the privilege against self-incrimination under ECHR Art. 6(2) be meaningfully applied less stringent? Further, what procedural rights apply for borderline sanctions *not* regarded as ‘criminal’ per *Engel*, such as administrative confiscation.

ii) *Institutional objectivity*. Currently, Norwegian administrative sanctioning does not distinguish between different functional bodies. This means that the same body, for example the Competition authority, can investigate, impose, and enforce a sanction. This stands in contrast with the criminal process based on a strict functional separation of powers for objectivity purposes. Drawing on similarities with criminal procedure and the role of fire walls there, WP3 addresses implications of the absence of fire walls between investigating, sanctioning, and enforcing administrative sanctions from the perspective of the principle of objectivity. Against the backdrop of the unique nature of administrative sanctioning, WP3 asks how objectivity can be safeguarded during investigation (for example so that investigating bodies consider both circumstances for and against liability) and the sanctioning phase (for example so that the assessment of whether the requirements of liability are fulfilled is satisfactory), including building on existing research on the viability of specialised courts or administrative bodies (“nemnder”).³⁴ The institutional structure of administrative sanctioning will also affect the realisation of fundamental rights protections.

WP4) Developing a structure of sanctioning based on proportionality. There are currently no clear, uniform, and consistent principles guiding degrees of administrative sanctioning in any given case, including regarding administrative fines (*overtredelsesgebyr*) where calculation is the essential method. Indeed, broad variations are found even between EU/EEA member States as to whether administrative fines or criminal sanctions are used for the same types of offenses.³⁵ Uniform principles guiding sanctioning levels are found within certain sectors, but no comprehensive analytical approach has been made.

Sanctioning refers, in principle, both to sanctioning latitude established in statute for a particular violation and fixing the fine in a case in view of the circumstances. Under PPA § 46 assessing sanctioning follows the corporate criminal liability model in the Criminal Code § 28, entailing a wide discretion, although some statutes provide directives. This vagueness creates unpredictability. Administrative fines can also, as mentioned above, be considerable and far exceed the magnitude of criminal fines (which are relatively low, rarely exceeding NOK 1-2 million). In other administrative sectors, fines can be lower (up to 50 000-100 000 NOK), but this is primarily due to tradition more than a preconceived model of calculation and regulatory impact. Drawing on the sentencing principles in criminal law, WP4 seeks to explore the role of these concepts within the framework of administrative sanctioning and to provide a consistent theoretical sentencing framework for administrative sanctions. This WP will benefit from empirical analysis of the select supervisory bodies’ practice archives, and analyse:

i) *The theoretical basis for sanctioning*. In criminal law theory, proportionality has is crucial in sentencing: punishment must be proportionate to the severity of the violation and the guilt of the perpetrator (and circumstances can aggravate or mitigate the sentence). WP4’s hypothesis is that retrospective proportionality is the best starting point for administrative sanctioning. In areas governed by

³⁴ See Smith 2022.

³⁵ Sanctioning of market abuse” conference at BI Norwegian Business School 5–6 June 2024, within the confines of SuPER project funded by the Research Council of Norway.

EU law, the CJEU requires “proportionate” administrative sanctioning. Although the ECHR rarely formally requires proportionality in fundamental rights sanctioning, ECtHR case law offers a patchwork of avenues through which proportionality is discernible. The added value of fundamental rights proportionality to general EU law concepts will be explored here. The starting point for administrative sanctioning levels will be the severity of the violation, which raises further questions: Should proportionality relate to the severity of the objective violation, or also to the guilt of the perpetrator? The guilt perspective connects to WP2 and whether a corporation can display guilt; and thus whether a distinction ought be made between corporate and individual perpetrators. Secondly, how can a reasonable relationship of proportionality be established between sanction and violation; i.e. which parameters determine this relationship, for example by identifying the sanctioning latitude in statute?

ii) *Identifying aggravating and mitigating circumstances.* Proportionality is a starting point. Other circumstances must be considered. In areas of sanctioning following EU law, such as in securities and competition regulation, sanctions also must be “effective and dissuasive”.³⁶ This adds further layers to proportionality. What does it mean, in a specific case, that a sanction shall not only be proportionate, but also effective and deterrent? Should these principles generally apply? In many cases, the assumption is that these will be relevant aggravating circumstances. Moreover, what role should compliance, the aim on the part of the perpetrator to achieve considerable gain, weak liquidity on the part of the perpetrator, etc. play? Similar challenges arise when considering the magnitude of other types of administrative sanctions, such as the revocation of licence.

Theoretical approach and methodology:

The project employs an interdisciplinary approach combining empirical legal research, doctrinal analysis, and legal theory.

WP1 Methodology – Empirical and conceptual analysis: *Phase 1:* Systematic mapping of administrative sanction provisions using LovdataPro database.³⁷ *Phase 2:* Large-scale computational analysis using S2-data set research platform on complete archives from three supervisory bodies (Datatilsynet, Mattilsynet, Fiskeridirektoratet), who have confirmed in writing their participation and their delivery of archives following GDPR and ethical standards. The project will employ the established S2-data research platform to conduct full-text analysis for tracking legal methodology, citational patterns and textual features to ascertain both actors’ prevailing understanding of the law and how they interact with the legal framework.³⁸ The value gained from this is tied to convenience, access to data and, most importantly, proven feasibility.³⁹ Through technical expertise and experience of project participant having co-developed the tool, the project can make use of established, proven, and secure programs for AI supported computational, linguistic and statistical analysis of legal documents. A further benefit is the completeness of data available. The S2-data platform runs on secure, GDPR-compliant systems developed specifically for research on social sensitive data, and using a

³⁶ C-66/88 *Commission v. Greece*, judgment 21 September 1989, para 24, as additions to “proportionate”.

³⁷ LovdataPro provides a comprehensive collection of Norwegian legislation, preparatory works, judicial decisions, and a selection of administrative bodies’ leading cases. Subscription provided by BI by default.

³⁸ Leicht 2007.

³⁹ See in particular the NoRDASiL project, where S2-data is used to analyse full text of 100 000+ asylum cases.

methodology that has been approved by the Data Protection Authority and the Council for Confidentiality and Research. *Phase 3: Cross-referencing empirical patterns with theoretical frameworks from criminal law theory and administrative law.* Conceptual analysis: The findings of empirical research will inform the conceptual analysis, based on existing literature and case law from the Supreme Court, of nature of administrative sanctions. An important binarism in this analysis will be the concept of criminal punishment. The unique features of the administrative sanctioning regime will thus be explored by contrasting administrative sanction against criminal punishment. This WP thus provides conceptual clarification to the boundary between administrative and criminal sanctioning. Philosophical grounding in moral and institutional theory is required to assess justifications for expanding use of administrative sanctions, and to provide benchmarks for assessing whether they are reflected in outcomes. **Output:** Typology distinguishing ‘criminal’ and non-‘criminal’ administrative sanctions; findings from *S2-data* analyses used for other WPs as applicable.

WP2 Methodology – Substantive law doctrine development: Comparative analysis of applicability of general criminal law principles relating to PoL, justifications, fault, attempts, and complicity on administrative sanctions based on systematic review of sector-specific variations (competition law, data protection, etc.). Analysis of Supreme Court and other case law. Use of doctrinal analyses:⁴⁰ Only by situating oneself within a “unity of discourse” is it possible to describe, prescribe and justify norms in a way that fits the legal system. Use of analytical jurisprudence:⁴¹ Analytical tools are required to navigate conceptual distinctions between criminal and administrative legal norms and primary, duty-imposing legal norms and the secondary, sanction-imposing powers associated with them. Considering the nature of the administrative sanction discourse, all parts of the doctrinal stages will, in addition to the CFR/ECHR perspective, also benefit from comparative legal perspectives, particularly legal discourse in other Nordic countries, Germany, and UK. **Output:** Framework of general principles for administrative sanctioning.

WP3 Methodology – Procedural and institutional analysis: Mapping institutional arrangements across sectors. Comparative analysis with specialized systems that have developed more coherent principles on administrative sanctioning (incl. German *Ordnungswidrigkeit*). This WP makes use of empirical analysis of procedural variation using *S2-data* platform. Analyses of procedural framework and institutional arrangements will be conceptual and assessed against overarching fundamental rights aims, such as due process and objectivity. Doctrinal analysis. **Output:** Model for administrative sanctioning process.

WP4 Methodology – Proportionality framework development: Empirical analysis of sanctioning levels across sectors using *S2-data* platform. Doctrinal analysis of CJEU’s “effective, proportionate, dissuasive” standard. Integration of ECHR/CFR proportionality jurisprudence. Comparative analysis with sentencing principles in criminal law. **Output:** Unified proportionality framework with adaptations.

⁴⁰ Legal doctrinal reasoning aims to systematise principles, rules and concepts governing a body of law, using an internal perspective within the communicative practice and values of the legal order, cf. Smits 2017 p. 211.

⁴¹ Analytical jurisprudence refers to a layer wrapped around legal doctrinal reasoning; conceptual approaches with two core features: atomism, the idea that a complex phenomenon like law can be disassembled into distinct normative components, and a continuous refinement of linguistic and conceptual tools. See Hart 1983 p. 271; Wenar 2008 p. 251.

Many key questions in RODEAS concern the relationship between administrative sanctions and punishment, or blurred distinctions between legal categories, and necessary procedural safeguards, but relate to the same problem: whether to sort administrative sanctions under the umbrella of administrative or criminal law, each of which is associated with distinct principles of interpretation and rule of law and due process. It is worthwhile, therefore, to indicate here possible conceptual alternatives. The *first option* is to choose administrative principles of interpretation and legality and thus forgo many legal and procedural guarantees in criminal law settings, significantly weakening legal protections. It might be possible to develop a particular “sanctioning track” guided by a special set of principles and rules, which seeks to guarantee due process. The *second option* is sorting administrative sanctions under criminal law proceedings, which would undermine legislative intentions and saddle administrative authorities with a significant and unexpected burden. The *third option*, that of staking out a hybrid regime situated between administrative and criminal law frameworks, represents the most rational approach given existing law and practice.⁴² Whether this solution is workable is unclear, and it would require administrative authorities and their counterparts to maintain a conceptually challenging distinction. It also runs counter to the perception that primary, action-guiding rules are constituted by their sanctions; that primary and secondary norms are interlinked. The *fourth option* is to do both, subjecting primary norms whose violation triggers sanctions to administrative standards and secondary, penalty-imposing norms to criminal standards. A working hypothesis is that a particular track (second option) within the administrative domain tentatively is the most viable option in a Norwegian context.

⁴² Høgberg 2025.