

## Abstract

When people violate rules or regulations ; or even they disobey the law in which it is created to comply. They will suffer from law enforcement which may be civil criminal or administrative sanctions. First, Civil sanction is purposed to regulate the relationship among each individual party in its daily life. Second, Criminal sanction is purposed to process those who break the law or avoid in doing so has an effect on the society and decline the high-level social value or violate some kind of collective interest which invokes social censure and shame. The last Administrative sanction is purposed to keep the society in peace and morality or to provide the governmental organization's operation to flow smoothly and accordingly. Generally the administrative agency could use any or all of them in order to achieve the objectives of the law.

In the old days, the criminal sanction, especially the criminal penalty like execution or imprisonment for the breaches of the law is so powerful in keeping the society obedient. Due to the strong effect in the people's freedom, it must have a right procedure and trustworthy to consider the charges to judge the guilty. This is why the punishment of the defendant is usually delayed and leading to the ineffective of the law enforcement. So the legislation has turned to alternative instruments of enforcement in order to increase the effectiveness of the law enforcement. By authorizing the administrative agency to be able to create the penalty to the person who violate or contravene their rules or regulations. and who refuse to comply with the rules or regulations. The administrative penalty may be monetary penalties publicity restricting rights banning orders withholding licences or deduction in the driving license's score, etc. Since administrative penalty is often another instrument in leading to the objective of law and regulation. So the freedom of the citizens is easily intervene by the administrative agency.

As the administrative and criminal penalties have a similar objective. We may say it is a punishment that inflicted on those who break the law or avoid the violation to be happened (punitive and deterrent nature). As well as the penalty puts a limitation on the people's freedom and rights so we should have some guarantees and principles to apply in imposing administrative penalty such as legality principle (nullum crimen, nulla

poena sine lege), The principle of guilt (nulla poena sine culpa) and not twice for the same principle (ne bis in idem), etc. Though the other guarantees and principles are not mentioned here, does not mean that those guarantees and principles are not applicable in criminal penalty but it is much to be consider by its status purpose and objectives of the penalty as well.

The legality principle can be divided into 4 principles which are the prohibition of unclear terms in criminal statutes (nulla poena sine lege certa) the prohibition against ex post facto laws (nulla poena sine lege praevia) the prohibition of punishment by unwritten law (nulla poena sine lege scripta) and the prohibition of analogy (nulla poena sine lege stricta). First, the statute that prescribes the offences and penalties have to be defined exactly avoiding the word that need to be evaluated. Only sufficiently specified sanctions can instruct the judge precisely in which particular behaviour is punishable and how. Second, It is forbidden to impose ex post facto sanctions for a crime, or to introduce a more severe sanction or to intensify the sanctions. Punishability and punishment must have been legislated beforehand. Third, The punishability must be laid down in accordance with the legality principle. Written legislation must exist, customary law provides no basis for punishment. Fourth, The penal analogy bans, for the protection of the perpetrator, the transference of one legislation to another unlegislated situation, in order to justify the punishability of the perpetrator. On the contrary, the use of an analogy in favour of the perpetrator is permitted. These principles must be applied with administrative penalty as a result of being legal state and the general reasons. The person should be punished only when they violated the law which is defined by legislation and which is effective at that time. By the way the statute must be so exact that people can behave lawfully.

The principle of guilt (nulla poena sine culpa) can be explained that When an actor executes an act, he or she must have a subjective aspect of intention or negligence, and only under such a circumstance can his or her act be established as a crime. In the Germany, The petty offence was removed from the criminal offence and was defined as administrative offence. Anyway the intention or negligence are still significance. The administrative penalty will be imposed providing that the offence is imputable to the offender. Contrary to German, In France, the intention or negligence are

usually not of major significance. The administrative penalty may be imposed on person who are entirely without blame for the offence. In England where does not have a clear concept of administrative penalty. However for some criminal offences which are administrative offences in nature (so-called strict liability) the intention or negligence are not significance. In Thailand, the statute which create administrative offences do not define the intention or negligence to be an element of an offence. In conclusion the law may define the intention or negligence be an element of an administrative offence or not. depend on its history, the basic concept of law history and the legal policy.

According to the principle, however the internal element should regulate the condition to consider the charges of the guilt except the one which often happens with cleared evidence and tiny penalised. For efficiency to prevent any breaking law, the regulation exists even for a person who intentionally or negligently breaks the law. The “Not twice for the same principle” (ne bis in idem) most regulates to the final adjudication principle and final binding effect in the verdict (resjudicate) which is generally acquainted as an original manuscript adjusted to be used in criminal punishment case which is regulated by substantive law and adjective law, for instance, a person violates only one single rule but has broken several law provisions. Principle of not to re-try a verdict case which is judged the guilty and “the principle of International Foreign court”. Adjust of the principle which administrative sanctions could be done by 2 ways i.e. adjust between criminal and the administrative sanctions.

In Germany, the administrative sanctions held strictly for “Not twice for the same principle”. The administrative penalty (Gesetz über Ordnungswidrigkeiten (OWiG)) regulates the process of justice of the criminal and administrative sanctions in order not to enhance the repetitive punishment. In France, the criminal and the administrative sanctions are far independent. As each of the punishment types relied very much on the causes and different status law. In Thailand, neither the criminal nor the administrative sanctions law, had forbidden the administrative party or the court party to have the single punishment on both criminal and administrative sanctions. When one of the party had decided the punishment, the criminal and the administrative sanctions is far independent, the same way as in France. For the second case.

A single violation for the administrative sanction is judged for more than one law enforcement. When one administrative party decided to have a verdict for a punishment, "Is another party able or unable to do the same thing?" The enactment of administrative sanctions law in Germany has clearly stated "not twice for the same principle". In Thailand, administrative sanctions had several and different purposes to regulate and preventing the violation, such as enhancing peace, economic stability, healthiness of people. Therefore, the Thai enactment had not been mentioned about the repetition of the law enforcement. In the current situation, The charges to judge the guilty in administrative sanctions, different kinds of guilty of administrative and criminal sanctions, difference between charges and control in administrative is still unexplicitly, according to the procedure and sequences by law, creating the confusion and misunderstanding. Adjustment of the same law, the charges and the administrative sanctions. Lack of the centralised main important knowledge, guideline, differentiate among the administrative sanctions from the criminal sanctions. Including, the inappropriate interpretation of the wording in the provision law which create the confusion between the administrative sanction and the administrative fine which is one of the controlling strategy