4 As 140/2019 - 27 CZECH REPUBLIC DIFFERENT COURTS OF THE M R E P U B L I K Y The Supreme Administrative Court decided in a panel composed of the chairman Mgr. Aleš Roztočil and judges JUDr. Jiří Pally and Mgr. Petra Weissová in the legal matter of the plaintiff: Czech Republic - Ministry of the Interior, with registered office at Nad Štolou 936/3, Prague 7, against the defendant: Office for Personal Data Protection, with registered office of Plk. Sochora 727/27, Prague 7, against the decision of the president of the defendant dated 28 January 2016, no. UOOU-10090/15-15, in the proceedings on the plaintiff's cassation complaint against the judgment of the Municipal Court in Prague dated 5 March. 2019, No. 10 A 52/2016 - 49, as follows: I. The appeal is dismissed. II. None of the participants has the right to compensation for the costs of the cassation appeal. Reasoning: I. Proceedings to date [1] The plaintiff filed a lawsuit at the Municipal Court in Prague demanding a review of the decision of the defendant's chairperson indicated in the header. According to the defendant's first-instance decision of 19 November 2015, no. UOOU-10090/15-7, the plaintiff committed an administrative offense pursuant to § 45 paragraph 1 letter h) of Act No. 101/2000 Coll., on the protection of personal data and on the amendment of certain laws, because it did not adopt or implement measures to ensure the security of personal data processing. The plaintiff should have specifically committed this by not ensuring that there was no unauthorized access to the population register by Czech Radio (from June 2013 to October 2014) and Czech Television (from September 2014 to October 2014). For this delict, the first-instance decision imposed a fine on the plaintiff in the amount of CZK 700,000 pursuant to Section 45, Paragraph 3 of the Personal Data Protection Act, which was subsequently reduced to CZK 500,000 by the contested decision. [2] The municipal court dismissed the claim. He noted that the Act on Radio and Television Fees in the relevant wording did authorize both providers to obtain data defined by 4 As 140/2019 on taxpayers for the purpose of managing taxpayer records and collecting outstanding fees, but only from electricity suppliers, not by accessing data through the population register . The court therefore did not confirm the plaintiff's claim that broadcasters should have been authorized to enter the register of residents for the purpose of collecting fees, even before the amendment to the Act on Radio and Television Fees. [3] The municipal court emphasized that with regard to the content of § 13, paragraph 1 of the Act on the Protection of Personal Data, which is the obligation to adopt and implement security measures, this obligation will be violated by the fact that a situation arises where the personal data being processed is a certain endangered due to the absence of appropriate measures or the inconsistent implementation of these measures in practice. Therefore, the occurrence of a certain risk is sufficient to fulfill the relevant factual basis of the administrative offence, even though the loss, destruction or misuse of data has not yet occurred or will never occur. The

actions of the plaintiff, which enabled unauthorized access to data in the register of persons of Czech Radio (in approx. 70,000 cases) and Czech Television (in approx. 250 cases), caused very serious damage to the legally protected interest in the protection of personal data. [4] The municipal court also found the objection that the identity of the deed was not preserved, or the subject of the proceedings. From the notification on the initiation of administrative proceedings dated 21 September 2015, it is clear which administrative body makes the decision (Office for Personal Data Protection), it describes the act that is the reason for the initiation of proceedings (the plaintiff did not ensure that there was no unauthorized access to register of inhabitants), including the time range, and also the reason why the proceedings are initiated [suspicion of committing an administrative offense according to § 45 paragraph 1 letter h) of the Act on the Protection of Personal Data, which should have resulted in a violation of the obligation set forth in Section 13, Paragraph 1 of the Act on the Protection of Personal Data]. [5] The municipal court did not convince the plaintiff that the subject of the proceedings, as regards the definition of the conduct in the notice of initiation of the proceedings, differed in a significant way from the subject for which the sanction was imposed on her, and that it would not be clear during the entire proceedings what the facts were and what actions did the plaintiff commit. In the same way, one cannot agree with the plaintiff's objection that the classification of the deed has been changed. On the other hand, it is quite clear from the notification of the initiation of administrative proceedings and from the first-instance decision that the administrative offense was qualified according to § 45 paragraph 1 letter h) of the Act on the Protection of Personal Data, which should have resulted in a violation of the obligation set forth in Section 13, Paragraph 1 of the Act on the Protection of Personal Data. [6] In conclusion, the municipal court stated that the first-instance decision contains all the legal requirements, when the statement of the decision contains a proper description of the act by indicating the place, time and manner of commission, as well as indicating other facts, which are necessary so that it cannot be confused with another , entirely in the sense of the judgment of the extended panel of the NSS dated 15/01/2008, No. 2 As 34/2006 - 73, to which the plaintiff referred, since the plaintiff's conduct subordinated to the factual nature of an administrative offense cannot be confused with another. II. Cassation complaint and statement of the defendant [7] The plaintiff (complainant) contested the judgment of the municipal court with a cassation complaint. [8] According to the complainant, the municipal court applied the Personal Data Protection Act incorrectly and contrary to the jurisprudence of the Supreme Administrative Court instead of the newly effective Regulation (EU) No. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in in connection with the processing of personal data and the free movement of such data ("GDPR"). He also did not

take into account Act No. 250/2016 Coll., on liability for misdemeanors and their proceedings. In doing so, he burdened his 4 As 140/2019 - 28 continued judgment with illegality consisting in an incorrect assessment of a legal issue. The municipal court also did not justify its judgment in a reviewable manner in accordance with established jurisprudence, especially with regard to the ratio of earlier and later applicable legislation that changed in the area of personal data protection and administrative punishment, and thus burdened the proceedings with a defect that could result in an illegal decision . [9] The complainant objects that the GDPR imposes milder requirements on personal data controllers than the Personal Data Protection Act, and the court should therefore have taken it into account as a legal regulation more favorable to the complainant. Specifically, the directly applicable provisions of Article 24 and Article 32 of the GDPR, stipulating the obligations of the personal data controller more mildly, respectively, were not taken into account. in a more differentiated way, compared to § 13, paragraph 1 of the Personal Data Protection Act, in its absolute sense. While Section 13(1) of the Act on Personal Data Protection imposes essentially absolute requirements on the administrator without exception (cf. the words "to prevent this from happening"), the newly effective Articles 24 and 32 of the GDPR require "appropriate measures", resp. "an appropriate level of security", and they primarily take into account the riskiness of the processing, with reference to a wide range of criteria, which also results in the gradation of requirements for administrators, also with regard to costs and technological possibilities, as a result of which it is a more favorable adjustment. It is also a more favorable adjustment because the main risks used according to Article 32 (2) of the GDPR to assess the "appropriate level of security" represent a narrower list than the situations that "must not occur" according to § 13 (1) of the Personal Data Protection Act , especially since Article 32 (2) of the GDPR does not cover any unauthorized processing or other misuse of personal data. [10] The court did not even deal with the changes in the area of national regulation of administrative punishment (Act No. 250/2016 Coll., on liability for misdemeanors and their proceedings), which newly establishes, among other things, the conditions for the creation and termination of liability for a misdemeanor or the criteria for imposition of sentence. The complainant here refers to the judgment of the National Court of Justice of 27 October 2004, No. 6 A 126/2002 - 27, which qualifies as unreviewable such a decision which does not deal with the question of comparing the old and new arrangements of the parties in favor of the accused, although in the present case, both the regulation of personal data protection and administrative punishment as a whole have undergone changes. [11] From the point of view of the complainant, the municipal court did not even deal with the objection of the formalism of the defendant's decision. The court ignored the objection of the absence of interference with the right to informational self-determination, if the

taxpayer is obliged to provide the required personal data himself and tolerate their processing (due to the fulfillment of a legal obligation, i.e. the fulfillment of a task in the public interest). [12] When assessing the seriousness of the alleged misconduct, the level of risk for the subjects of personal data was not taken into account, or the riskiness of the processing, if these are processed by public authorities, i.e. by public entities performing the functions of the state, where the risk of misuse is low. It is not about the transfer of personal data to, for example, private entities for commercial use, but about processing for the purposes of enforcing a quasi-tax obligation. [13] Finally, the complainant does not agree with the way in which the municipal court evaluated the objections against the violation of the procedural rights of the participant. She does not agree with the conclusion that the changes to the subject of the proceedings or its expansion, without any notification or the possibility of a timely statement, were insignificant and the complainant's rights were not abridged in any way by them. [14] Furthermore, it cannot be claimed that for the preservation of the identity of the deed and the accuracy of its qualification, a reference to a general (in addition alternative) legal provision or a citation of a demonstrative list of facts is sufficient. This does not apply in the so-called "big" criminal law, nor in administrative punishment. In both judicial and administrative punishment, a delict violating or threatening the same object can be committed by different actions that are qualified differently (compare, for example, a criminal offense according to § 354 of the Criminal Code 4 As 140/2019 of the Code or a misdemeanor according to § 7 of Act No. 251/2016 Coll. , about some offences), and a reference to the object of the offense or to a set of facts is not enough. [15] In his statement to the cassation complaint, the defendant stated that he does not agree with the complainant's opinion, according to which the GDPR represents a more favorable regulation for the complainant. First of all, it is necessary to remind that Article 32 of the GDPR, representing a certain equivalent of § 13 of the Personal Data Protection Act, requires the controller, taking into account, among other things, the nature, scope and purposes of the processing, to ensure a level of security corresponding to the given risk, possibly including the ability to ensure continuous confidentiality, integrity, availability and resilience of processing systems and services. From the diction of Article 32 of the GDPR, the same can be deduced in principle as from § 13 of the Personal Data Protection Act. A fine of up to EUR 10,000,000 may be imposed in case of violation of Article 32 of the GDPR. [16] The defendant further states that he conducted the proceedings even before the date of applicability of the GDPR. It further emphasizes that § 62, paragraph 5 of Act No. 110/2019 Coll., on the processing of personal data, which in the case under consideration, in conjunction with Article 83, paragraph 7 of the GDPR, would lead to the waiver of the imposition of an administrative penalty, did not become effective until April 24, 2019, i.e. only during the

cassation appeal proceedings. According to the resolution of the extended Senate of the NSS dated 16 November 2016, No. 5 As 104/2013 - 46, the obligation to take into account more favorable legislation in accordance with Article 40, paragraph 6 of the Charter of Fundamental Rights and Freedoms (Charter) applies exclusively for proceedings before the administrative body and the regional court. The defendant therefore proposes to dismiss the cassation complaint. III. Assessment of the cassation complaint [17] The Supreme Administrative Court first assessed the legal requirements of the cassation complaint and concluded that the cassation complaint was filed in time, by an authorized person, against a decision against which a cassation complaint is admissible in the sense of § 102 s. of the Civil Code, and the complainant is represented by a person with a university degree in law in accordance with § 105 paragraph 2 of the Civil Code. After that, the Supreme Administrative Court reviewed the merits of the cassation complaint in accordance with § 109 paragraphs 3 and 4 of the Civil Code, within the limits of its scope and the reasons applied. [18] The cassation complaint is unfounded. [19] The complainant objected that the municipal court did not take into account the new, more favorable for the complainant, legal arrangement contained in the directly applicable GDPR regulation. Specifically, the directly applicable provisions of Article 24 and Article 32 of the GDPR, stipulating the obligations of the personal data controller more mildly, respectively, were not taken into account. in a more differentiated way, compared to § 13, paragraph 1 of the Personal Data Protection Act, in its absolute sense. [20] According to the resolution of the extended senate of 16/11/2016, No. 5 As 104/2013 - 46, "[r]hen the regional court in the administrative judiciary decides on a lawsuit against the decision of the administrative body, which decided on guilt and punishment for an administrative offense in a situation where the law that was used was changed or canceled after the legal force of the administrative decision, is obliged to take into account the principle expressed in the second sentence of Article 40, paragraph 6 of the Charter of Fundamental Rights and Freedoms, according to which assesses the criminality of the offense and imposes the punishment in accordance with the legislation that came into effect only after the offense was committed, if it is more favorable for the offender. The Supreme Administrative Court followed up on the conclusions from the judgment of 27 October 2004, No. 6 A 126/2002 - 27, where it is stated that "it is not possible to punish according to the old law during the effective period of the new law, if the new legal the modification did not take over the specific factual substance; by analogy, this also applies if the new regulation stipulates milder sanctions for the same conduct. " 4 As 140/2019 - 29 continued [21] Clause § 13, paragraph 1 of the Act on the Protection of Personal Data stipulates that [the] controller and the processor are obliged to take measures to prevent unauthorized or accidental access to personal data, to their change, destruction or loss, unauthorized

transfers, to their other unauthorized processing, as well as to other misuse of personal data. This obligation applies even after the end of personal data processing. [22] Art. 24 of the GDPR states that [with] taking into account the nature, scope, context and purposes of the processing as well as the variously probable and variously serious risks to the rights and freedoms of natural persons, the administrator shall implement appropriate technical and organizational measures to ensure and be able to demonstrate that the processing is carried out in accordance with this regulation. These measures must be revised and updated as necessary. [23] According to Article 32 of the GDPR, [with] taking into account the state of the art, implementation costs, nature, scope, context and purposes of processing, as well as the variously probable and variously serious risks to the rights and freedoms of natural persons, the administrator and the processor shall carry out appropriate technical and organizational measures to ensure a level of security appropriate to the given risk, with a demonstrative list of security methods. [24] Art. 32 paragraph 2 of the GDPR prescribes that [when] assessing the appropriate level of security, the risks posed by processing, in particular accidental or unlawful destruction, loss, alteration, unauthorized disclosure of transferred, stored or otherwise processed personal data, or unauthorized access to them. [25] The Supreme Administrative Court states that the cited provisions of the GDPR cannot be interpreted as a more favorable legal regulation for the complainant compared to Section 13, Paragraph 1 of the Personal Data Protection Act. As for Article 24 of the Regulation, this provision does not constitute a separate factual matter for the violation of which the GDPR would establish a sanction. The comparison with the violation of the obligation stipulated in § 13, paragraph 1 of the Personal Data Protection Act is therefore not appropriate. [26] The difference in the wording of § 13(1) of the Personal Data Protection Act and Article 32 of the GDPR cannot be interpreted in such a way that § 13(1) establishes an "absolutist" requirement for the security of personal data compared to Articles 24 and 32, which it talks about “appropriate measures” and “an appropriate level of security. The provisions of the GDPR only explicitly specify aspects that had to be taken into account when assessing the measures taken pursuant to § 13, paragraph 1 of the Act on the Protection of Personal Data, which also follows from § 13, paragraph 3, which states the risks to which measures according to paragraph 1 must be taken into account. However, certain wording differences cannot be interpreted as meaning that the GDPR contains an amendment more favorable to the complainant. In particular, these differences cannot be interpreted as meaning that, compared to the Personal Data Protection Act, the GDPR imposes lower requirements on personal data processors. [27] It should be emphasized that § 13 (1) of the Personal Data Protection Act was the implementation of Article 17 (1) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on

the protection of natural persons in connection with by the processing of personal data and on the free movement of such data, where it is imposed to ensure that each controller of personal data is obliged to take such appropriate measures for the protection of personal data that would be sufficiently effective against unauthorized disclosure or access, especially if the processing involves the transmission of data in a network, as well as against any other form of illegal processing. This was also stated by the city court in the challenged judgment. Even this circumstance indicates that, in the case of the GDPR, it is not a legal arrangement more favorable to the complainant than the Personal Data Protection Act. [28] Nothing follows from the argumentation of the complainant that could lead to the conclusion that her actions would not constitute an administrative offense according to the GDPR, or how 4 As 140/2019 the provisions of the GDPR to which she refers should be for her with regard to the established factual situation more favorable. [29] The Supreme Administrative Court also points out that Article 5 paragraph 1 letter f) GDPR, among the list of personal data processing principles, states that personal data must be processed in a way that ensures proper security of personal data, including its protection by means of appropriate technical or organizational measures against unauthorized or illegal processing and against accidental loss, destruction or damage (" integrity and confidentiality"). Art. 83 paragraph 5 letter a) GDPR stipulates that an administrative fine of up to EUR 20,000,000 can be imposed for violation of the basic principles for processing according to Article 5. The legal regulation in the GDPR could therefore mean a significantly stricter penalty for the complainant than the regulation contained in the Personal Data Protection Act. [30] The complainant further objects that the municipal court neglected to deal with the regulation contained in Act No. 250/2016 Coll., on liability for misdemeanors and their proceedings. The Supreme Administrative Court states that the municipal court did not really deal with this law in the case under review, however, the complainant did not object in the lawsuit that the legal regulation contained in this law would be more favorable for her, and she does not object to such a thing in the cassation complaint either. The fact that the municipal court did not deal with the possible more favorable impact of the application of Act No. 250/2016 Coll. on the matter under review cannot therefore lead to the conclusion of the illegality of its judgment in the case under review. With regard to the applicant's reference to the judgment of 27 October 2004, No. 6 A 126/2002 - 27, the court states that this judgment declared the necessity of comparing the legal arrangements for administrative punishment in proceedings before administrative authorities, not before administrative courts. In addition, it is possible to refer to the NSS judgment of 6/28/2018, no. 4 As 114/2018 - 49, where it is stated: "the principle of applying later, more favorable legislation enshrined in Article 40, paragraph 6 of the Charter of Fundamental Rights and Freedoms and

implemented by § 7, paragraph 1 of the Act on Offenses, or Section 2, paragraph 1 of the Act on Liability for Misdemeanors does not mean that an administrative authority or a court is obliged to draw up an extensive treatise on the subject of comparing the legislation effective at the time of the commission of the offense and the legislation effective at the time of the decision-making by the administrative authorities. The advantage of the legal arrangement for the offender must be assessed comprehensively, see the above-mentioned judgment sp. stamp 4 As 96/2018, but at the same time taking into account the specific circumstances of the case and the objections of the offender, i.e. not hypothetically and theoretically with regard to all possible and impossible circumstances. " [31] If the complainant further refers to "adaptation legislation", i.e. Act No. 110/2019 Coll., on the processing of personal data, this law cannot be taken into account in the case under consideration, as it only became effective after the contested judgment of the municipal court. [32] The complainant further objected that the defendant made decisions in a formalistic manner and incorrectly evaluated the circumstances of the case. It points out that the approach of public television and radio broadcasting providers cannot be assessed as a serious breach of personal data protection. The level of risk for the subjects of personal data was not taken into account, or the riskiness of the processing, if these are processed by public authorities, i.e. by public entities performing the functions of the state, where the risk of misuse is low. The municipal court should also have ignored the objection of the absence of interference with the right to informational self-determination, if the taxpayer is obliged to provide the required personal data himself and tolerate their processing. [33] The Supreme Administrative Court does not agree with the downplaying of the alleged violation of the duties of the personal data administrator by the complainant. The subject of the proceedings before the administrative authorities was the complainant's misconduct in taking measures to prevent unauthorized or accidental access to personal data or other forms of misuse referred to in Section 13, paragraph 1 of the Act on the Protection of Personal Data, which is undoubtedly serious even with regard to the scope of personal data , which the complainant processes without the personal data subjects being able to influence it in any way. 4 As 140/2019 - 30 continued From the complainant, which is the Czech Republic as defined in the constitution as a legal state, it is necessary to demand consistent protection of this personal data and respect for her legal obligations. [34] The same then applies to objections that the right to informational self-determination of persons to whose personal data Czech Television and Czech Radio had access was not affected, and the objection that the risk of misuse by these bodies is low. [35] The contested formalism of the administrative authorities' decision can also be referred to the challenged decision of the defendant, who stated on page 4 that "the appeals authority found gross negligence in the

procedure of the participant in the statutory control of the correctness and authorization of access of subjects to the register of residents. As it follows from the collected material and the results of the administrative proceedings, the party to the proceedings in the given case neglected to check whether the said entities have the legal title to allow access to the register of residents, while there was no other control mechanism in place to prevent this error before allowing access to the register revealed... By the fact that the party to the proceedings did not fulfill his legal obligation and did not consistently check the authorization of individual public authorities to access the basic registers, because, according to his statement, he believed that he did not need to proceed in this way, and he did not have any other control mechanism in place, he contributed to the creation of a risky situation that resulted in allowing access to the register of residents of two unauthorized entities. The defendant therefore justified what he saw as the seriousness of the violation of the obligation set forth in Section 13, Paragraph 1 of the Personal Data Protection Act, and the Supreme Administrative Court therefore does not consider his decision to be formalistic. [36] The Supreme Administrative Court then does not consider it a defect of the contested judgment that the municipal court did not explicitly comment on all these aspects. As the Supreme Administrative Court has stated many times in its jurisprudence, it is not the duty of the regional courts to respond to every partial argument presented in the administrative action. The municipal court explained in detail the circumstances establishing the applicant's responsibility for the assessed administrative offense and its judgment shows the reasons for which it considered the defendant's decision to be in accordance with the law. At the same time, the municipal court took into account the circumstances testifying in favor of the complainant when considering the amount of the imposed fine (e.g. the legitimate purpose of accessing the register of residents, which both concerned entities were monitoring), which the Supreme Administrative Court considers adequate. [37] Finally, the applicant objected that the municipal court incorrectly assessed the issue of defining the subject of the proceedings in the notice of initiation of the proceedings and the statement of the decision of the administrative body. The complainant here primarily objects that the changes to the subject of the proceedings cannot be considered insignificant, and claims that her rights were abridged by them. She also objected to the (unspecified) contradiction between the statement of the decision and its justification. [38] In addition, the Supreme Administrative Court notes that the applicant's argument is only general and non-specific on this point. Therefore, the Supreme Administrative Court only refers to the justification of the judgment of the municipal court, which dealt with the contested defects in the decision in detail, and the Supreme Administrative Court does not see any errors in this settlement. It should be remembered that the more general the claim, or cassation objection, the

more general is its settlement by the court. It is not the task of the courts to second-guess the argument of a party to the proceedings. [39] In this context, the complainant further objected that in the statement of the decision on the administrative offense a reference to the general legal provision according to which the offense was to be committed, or a demonstrative list of facts in the statement of the decision, is not sufficient. [40] Pursuant to § 68, paragraph 2 of the Administrative Code, [in] the statement part, the resolution of the question that is the subject of the proceedings, the legal provisions according to which the decision was made, and the designation of the participants according to § 27, paragraph 1. 4 As 140/2019 Participants who are natural persons shall identify themselves with data enabling their identification (Section 18, paragraph 2); participants who are legal entities are identified by name and address. The statement part shall state the deadline for fulfilling the imposed obligation, possibly also other data necessary for its proper fulfillment and the statement on the exclusion of the suspensive effect of the appeal (Section 85, paragraph 2). The propositional part of the decision may contain one or more propositions; the statement may contain secondary provisions. [41] According to the NSS judgment of 17/01/2013, No. 8 Afs 17/2012 - 375, the description of the act in the statement of the decision must contain "factual circumstances that are legally significant from the point of view of fulfilling the individual elements of the factual nature of the administrative offense , which is the subject of the proceedings. In other words, it must be at least a sufficiently detailed description to fulfill the requirements of unambiguous identification of the deed and clarity, so that the description of the deed contains all its legal features of the relevant factual substance, and that the contested decision's statement already shows what kind of conduct the subject was offense committed. " [42] The purpose of the precise definition of the act in the statement of the decision, by which the accused is found guilty of committing an offence, is to ensure that his actions are not interchangeable with other actions and to properly define the decisive circumstances from the point of view of assessing the obstacle to lis pendens, compliance with the principle of ne bis in idem, obstacles to the case decided, from the point of view of defining the scope of evidence and ensuring the right to defense (cf. NSS judgments of 8 January 2015, No. 9 As 214/2014 - 48, or of 25 June 2015, No. 9 As 290/2014 - 53). [43] The defendant stated in the judgment of the first-instance decision that the complainant, as the administrator of personal data, allowed Czech Radio and Czech Television, through an incorrect setting of their scope in the register of rights and obligations, access to the register of residents, which contains the name, surname, date of birth, address of permanent residence and delivery address, as a result of which Czech Radio illegally accessed this data in about 70,000 cases between June 2013 and October 2014, and Czech Television in about 250 cases between September 2014 and October 2014. In doing so, the

complainant violated the "obligation set out in § 13 paragraph 1 of Act No. 101/2000 Coll., i.e. the administrator's obligation to take measures to prevent unauthorized or accidental access to personal data, their alteration, destruction, or loss by unauthorized transmissions, to their other unauthorized processing, as well as to other misuse of personal data, and thereby committed an administrative offense pursuant to § 45 paragraph 1 letter h) of Act No. 101/2000 Coll., because he did not adopt or implement measures to ensure the security of personal data processing. " [44] The Supreme Administrative Court notes that the first-instance decision confirmed by the contested decision of the defendant's chairperson contains a reference to the provisions according to which the decision was made. The provisions of § 13, paragraph 1 of the Personal Data Protection Act are not further subdivided, and the reference given in the statement of the decision is therefore linked to the reference to § 45, paragraph 1 letter h) of the same Act sufficiently specific. In the cassation complaint, the complainant points to a comparison with the provisions of § 7 of Act No. 251/2016 Coll., on certain misdemeanors, and § 354 of Act No. 40/2009 Coll., Criminal Code. However, this should not be compared with Section 13, Paragraph 1 of the Act on the Protection of Personal Data, which establishes certain obligations of the administrator and processor of personal data, but with Section 45 of the Act on the Protection of Personal Data. The last-mentioned provision contains a differentiated list of the facts of administrative offences, while the reference to the said provision has been properly specified and in connection with the description of the act by which the offense was committed, there can be no doubt about the fulfillment of the legal requirements of unambiguous identification of the act and clarity of the statement, so that the description of the act includes all of its legal features of the relevant factual substance, and that it already follows from the statement of the contested decision, by what action the delict in question was committed. This objection is therefore not justified either. 4 As 140/2019 - 31 continuation IV. Conclusion and decision on the costs of the proceedings [45] For the above-mentioned reasons, the Supreme Administrative Court rejected the appeal in cassation pursuant to Section 110, paragraph 1, sentence two of the Criminal Procedure Code as unfounded. [46] At the same time, the Supreme Administrative Court decided on the costs of the cassation appeal proceedings pursuant to Section 60, paragraph 1 of the Criminal Procedure Code in conjunction with Section 120 of the Criminal Procedure Code. doesn't have The procedurally successful defendant did not incur costs in the proceedings exceeding the scope of the costs of his normal official activities. Compensation for the costs of the proceedings is therefore not awarded to him. Lesson learned: No appeals are admissible against this judgment. In Brno on June 27, 2019 Mgr. Aleš Roztočil, chairman of the senate