ADMINISTRATIVE LIABILITY OF THE BUILDER IN THE CONTEXT OF ENVIRONMENTAL PROTECTION AND SUSTAINABLE USE OF NATURAL RESOURCES

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1. Introduction

Construction is one of the economic sectors traditionally associated with high consumption of natural resources and significant environmental impacts. According to Eurostat data for 2022, construction is the most significant source of waste in the European Union. This sector accounts for 38.4 % of total waste production, significantly exceeding other economic activities.[1] These data clearly show that construction is the largest producer of waste in the European Union and is therefore a key sector that should be targeted by sustainable resource management policies.

Construction is also undoubtedly one of the most significant areas of human activity that affects the quality of the environment and the management of natural resources. Given the scale and intensity of interventions in the territory, builders are key addressees of public law obligations in the field of environmental protection. Recent legislation, in particular the new Building Act No. 283/2021 Coll. (hereinafter referred to as the "new Building Act"), explicitly regulates the principle of sustainable use of natural resources and enshrines it as one of the general requirements for buildings.[2] This shift reflects a broader trend in European law, which emphasises the strengthening of the principles of the circular economy, waste prevention and responsible use of materials.[3]

The builder thus becomes responsible not only for the technical requirements imposed on the construction,[4] but also for obligations related to environmental protection, including, among other things, the need to ensure the sustainable use of natural resources. Obligations related to environmental protection are not concentrated exclusively in construction law, but are scattered across a number of specific legal regulations, such as Act No. 334/1992 Coll., on the protection of

[1] Eurostat. Waste statistics. [online]. *European Union* [cited 28 August 2025]. Available from: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Waste_statistics

[2] Section 151 of the new Building Act.

[3] European Commission. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. New Action Plan for the Circular Economy. [online] *European Union*. 11. 3. 2020, COM(2020) 98 final.

[4] For example, the builder is obliged to ensure the proper preparation and execution of the construction, to keep (or have kept) a construction log, to report the stages of construction to the building authority and to allow inspections. They must ensure that the construction is carried out by qualified persons, that technical standards and occupational safety are complied with, and that the prescribed tests and inspections are carried out before the construction is completed.

agricultural land (hereinafter referred to as the "Act on the Protection of Agricultural Land"), Act No. 114/1992 Coll., on the Protection of Nature and the Landscape (hereinafter referred to as the "Act on the Protection of Nature and the Landscape") or Act No. 289/1995 Coll., the Forest Act (hereinafter referred to as the "Forest Act"). Each of these regulations sets out specific obligations for builders in terms of protecting specific components of the environment and the associated penalty mechanisms in the event of non-compliance.

The aim of this article is therefore to analyse the scope and content of the builder's obligations when carrying out construction activities in terms of the sustainable use of natural resources and to define the limits of their administrative and legal responsibility. Attention will be paid not only to positive legal regulation and the systemic relationship between construction and environmental law, but also to those less obvious and often underestimated obligations in practice that are not directly related to the building permit, but rather to the way natural resources and materials are handled during construction and to broader environmental requirements for builders. At the same time, the article aims to assess the effectiveness of the current legal framework and suggest possible directions for its further development in light of the principles of sustainability, environmental protection and effective public liability of builders.

2. Legal framework for the sustainable use of natural resources in construction

2.1 European and international legislation

The sustainable use of natural resources is based on the long-term development of international and European environmental law. At the international level, its roots can be found in the 1972 United Nations Conference on the Human Environment in Stockholm, which for the first time explicitly expressed the responsibility of both states and individuals for the protection of natural resources,[5] and in the 1992 Rio de Janeiro Declaration on Environment and Development, which also formulated sustainability in the context of the production and use of natural resources in order to achieve sustainable development.[6] At the international level, the Stockholm Declaration (1972) and the Rio Declaration on Environment and Development (1992) were followed by the United Nations Conference on Sustainable Development (known as the Rio+20 Conference), which took place in Rio de Janeiro in 2012. One of the outcomes of the conference was the Declaration "The Future We Want", which reaffirmed the principles of sustainable development and highlighted the need for sustainable use of natural resources as a prerequisite

[5] In particular, principles 1, 2 and 5 of the United Nations Conference on the Environment Declaration.

[6] In particular, principles 1, 2, 4 and 8 of the Declaration on Environment and Development.

for economic growth. The Rio+20 Conference also launched the preparation of the Sustainable Development Goals[7] , which were subsequently adopted by the United Nations General Assembly in 2015 as part of the 2030 Agenda for Sustainable Development, in which Goal 12 – Responsible production and consumption, which calls on Member States to minimise waste production and promote the circular economy.

At the European Union level, the basic regulation is Directive 2008/98/EC of the European Parliament and of the Council on waste, the so-called Waste Framework Directive, which establishes a waste management hierarchy.[8] This directive also set a target of recycling 70 % of construction and demolition waste by 2020.[9] Directive 2018/851 of the European Parliament and of the Council, which amended Directive 2008/98/EC on waste, strengthened the waste management hierarchy and extended it to include requirements for the prevention of construction and demolition waste and the use of demolition materials as secondary raw materials. Member States are required to take measures to promote sustainable production and consumption patterns, as well as to take measures to ensure the implementation of a system for sorting construction and demolition waste, at least for wood, mineral components (concrete, bricks, tiles, ceramics and stones), metal, glass, plastics and plaster.[10] The principle of sustainable use of natural resources is further reflected in Regulation (EU) 2020/852 of the European Parliament and of the Council on establishing a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 (the so-called taxonomy), which defines "sustainable economic activities", including construction, and highlights the circular economy.[11] At the same time, the European Green Deal and the follow-up EU Action Plan for the Circular Economy set out the European Union's strategic objectives in the field of material efficiency in construction. Last but not least, the European Commission has published the EU Protocol on the Management of Construction and Demolition Waste, which aims to strengthen confidence in the proper management of construction and demolition waste, including meaningful recycling and reuse, and to improve awareness of the quality of recycled construction and demolition waste with regard to the sustainability of the construction sector.[12]

[7] Sustainable Development Goals (SDGs).

[8] The waste management hierarchy according to Directive 2008/98/EC is prevention, preparation for reuse, recycling, other recovery (including energy recovery) and disposal (landfilling, incineration without energy recovery).

[9] Article 11(2) of Directive 2008/98/EC.

[10] Articles 9 and 11 of Directive 2008/98/EC, as amended by Directive 2018/851.

[11] Articles 3, 4 and 13 of Regulation (EU) 2020/852 of the European Parliament and of the Council on establishing a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088.

[12] European Commission. *EU Protocol on the management of construction and demolition waste* [online]. European Union [cited on 30 August 2025]. Available at: https://mpo.gov.cz/assets/

2.2 National legislation

In the Czech legal system, the sustainable use of natural resources is enshrined in Article 7 of the Constitution of the Czech Republic, according to which "the state shall ensure the prudent use of natural resources and the protection of natural wealth". "Prudent use of natural resources" means their cautious and rational processing or other use. The concept of "prudent use of natural resources" is a precursor to the comprehensive concept of "sustainable development". This concept takes a stricter approach to the use of resources, requiring maximum conservation in the use of non-renewable resources and rational use of renewable resources. Rational use of renewable resources is such use that ensures their permanent renewability.[13] In systematic connection with Article 35 of the Charter of Fundamental Rights and Freedoms,[14] it follows not only from this article that individuals have the right to a favourable environment, but also that everyone has a responsibility to protect it. From the perspective of subconstitutional law, the new Building Act provides fundamental support for the sustainable use of natural resources in connection with construction activities. As mentioned above, Section 151 of the new Building Act expressly enshrines a general obligation to design, construct and demolish buildings in such a way as to ensure the sustainable use of natural resources, in particular through the reuse or recycling of building materials and the use of environmentally friendly raw materials or secondary materials. This provision was not included in Act No. 183/2006 Coll., the Building Act (hereinafter referred to as the "old Building Act"), and it is clear from the explanatory memorandum to the new Building Act that Section 151 was added to the new Building Act in connection with the new amendment to Act No. 541/2020 Coll., on waste (hereinafter referred to as the "Waste Act"), which introduced the obligation to prevent waste generation and give priority to reuse over recycling or disposal.[15] The Waste Act is a key piece of legislation in the field of materials and waste management, as it defines construction and demolition waste[16] and imposes an obligation on builders to prevent waste generation, keep ongoing records and ensure that waste is only handed over to an authorised person. The Waste Act also transposes Directive 2008/98/EC on

cz/stavebnictvi-a-suroviny/strategicke-dokumenty-pro-udrzitelne-stavebnictvi/2018/11/Protocol-Ares_2016_5840668-101016_Cze.pdf

[13] SLÁDEČEK, Vladimír, MIKULE, Vladimír, SUCHÁNEK, Radovan, SYLLOVÁ, Jindřiška. *Constitution of the Czech Republic. Commentary.* 2nd edition. Prague: C. H. Beck, 2016, pp. 90–98.

[14] Article 35(1) of the Charter of Fundamental Rights and Freedoms reads: *Everyone has the right to a favourable environment.*

[15] Parliamentary Print 1008/0. *Explanatory memorandum to the government draft of the Building Act* [online]. Chamber of Deputies of the Parliament of the Czech Republic [cited on 25 August 2025], p. 51. Available at: https://mmr.gov.cz/getmedia/a1336352-37df-4477-87de-402fef96979e/4-Duvodova-zprava-k-vladnimu-navrhu.pdf.aspx?ext=.pdf

[16] Section 11(2)(j) of the Waste Act.

waste, as amended by EU Directive 2018/851, and creates a basic framework for the implementation of the circular economy. Another important regulation for builders in relation to the sustainable use of natural resources is the Act on the Protection of Agricultural Land, which imposes an obligation on builders to use primarily non-agricultural land, minimise the occupation of agricultural land[17] and handle topsoil separately.[18] The obligation to protect soil as an irreplaceable natural resource complements the material aspect of sustainable construction with a territorial and ecological dimension. Specific requirements are also set out in Act No. 254/2001 Coll., the Water Act (hereinafter referred to as the "Water Act"), which obliges builders to ensure adequate water supply to the construction site and wastewater disposal through approved systems, and to take measures to limit surface runoff and promote infiltration or retention of rainwater.[19] In connection with this, the Forest Act requires that construction work on land affected by forest management be carried out with the least possible impact on forest stands and the landscape functions of the forest.[20] The framework for the sustainable use of natural resources also includes Act No. 114/1992 Coll., on the protection of nature and the landscape (hereinafter referred to as the "Act on the Protection of Nature and the Landscape"), which imposes an obligation to locate buildings with regard to the preservation of the landscape character[21] and to proceed in such a way as not to endanger plants, animals or their habitats.[22] Nature conservation authorities have key decision-making powers in this area, which may condition the actual building permit.

3. Obligations of the builder and his administrative liability in relation to the sustainable use of natural resources

As mentioned above, the sustainable use of natural resources is reflected in a number of component pieces of environmental legislation that impose specific obligations on the builder. These obligations relate in particular to the protection of soil, forests, water, nature and the landscape, and their aim is to ensure that construction activities do not cause irreversible or excessive damage to the environment and do not threaten the functions of ecologically significant areas or elements.[23] Although these rules are not often labelled as "sustainability", their

[17] Section 4 of the Agricultural Land Protection Act.

[18] Section 8 of the Act on the Protection of Agricultural Land.

[19] Section 5 of the Water Act.

[20] Sections 13 and 22 of the Forest Act.

[21] Section 12 of the Nature and Landscape Protection Act.

[22] Section 5 of the Nature and Landscape Protection Act.

[23] TRTÍLEK, Petr, HANÁK, Tomáš. Performance Measurement in Czech Construction Companies with Regard to Environmental Responsibility. [Online]. In: IOP Conference Series: Earth and Environmental Science. IOP Publishing, 2021, [cited 13 October 2035], pp. 1-7. ISSN 1755-1315. Available from: https://doi.org/10.1088/1755-1315/906/1/012094.

common denominator is to ensure a long-term balance between development plans and the protection of natural resources, thereby also fulfilling the public interest in environmental protection.

These obligations are inextricably linked to the issue of the builder's administrative liability, which applies in the event of non-compliance with legal requirements. The liability of a builder who is a natural person requires fault, even in the form of unconscious fault or negligence, unless the law expressly stipulates that intentional fault is required.[24] Liability for an offence also arises for a natural person who has used a legal entity that is not liable for the offence to commit the offence.[25] If the builder is a legal entity, then the legal entity is the perpetrator of the offence if the elements of the offence were fulfilled by the actions of a natural person who, for the purposes of assessing the liability of the legal entity for the offence, is considered to be a person whose actions are attributable to the legal entity and who violated a legal obligation imposed on the legal entity, in the course of the legal entity's activities, in direct connection with the legal entity's activities or for the benefit of the legal entity or in its interest.[26] The liability of a legal entity for an offence is thus conceived as objective liability, but with the possibility of exemption.[27] In order for an entrepreneur engaged in business to become a perpetrator, the elements of the offence must be fulfilled in the course of their business or in direct connection with it, and the entrepreneur engaged in business must have violated a legal obligation imposed on an entrepreneur or a natural person.[28] An entrepreneur is also an offender if the elements of the offence are fulfilled by the actions of persons whose actions are attributable to the entrepreneur (e.g. an employee).[29] Similar to a legal entity, an entrepreneur engaged in business is liable for an offence regardless of fault, i.e. under a strict liability regime, but may also claim exemption and prove that they made every effort that could be required to prevent the offence.[30]

The provision of the Building Act, which stipulates that a building must be constructed and demolished in such a way as to ensure the sustainable use of natural resources,[31] expresses the general principle of environmentally responsible construction, but does not contain the factual basis of the offence or the sanction mechanism that would be applied in the event of non-compliance. In the author's

[24] Section 15 of Act No. 250/2016 Coll., on liability for offences and proceedings concerning them (hereinafter referred to as the „Act on Liability for Offences").

[25] Section 13 of the Act on Liability for Offences.

[26] Section 20 of the Act on Liability for Offences.

[27] According to Section 21(1) of the Act on Liability for Offences, *a legal entity shall not be liable for an offence if it proves that it made every effort that could be required to prevent the offence.*

[28] Section 22(1) of the Act on Liability for Offences.

[29] Section 22(2) of the Act on Liability for Offences.

[30] Section 23 of the Act on Liability for Offences.

[31] Section 151 of the new Building Act.

opinion, although this provision does not establish separate liability for the builder, it may represent a general interpretative and value framework for the elements of offences under component environmental protection legislation.

3.1 Obligations of the builder under the Waste Act

Construction activities inevitably generate waste (see above), particularly in the form of construction and demolition waste, and based on the above information, it is clear that this type of waste is of exceptional importance in terms of environmental protection and the sustainable use of natural resources, as construction is one of the most material-intensive industries with a high potential for reuse of the materials produced. In relation to any type of waste, it is necessary to respect the waste management hierarchy, according to which the priority is to prevent waste generation, and if waste generation cannot be prevented, then in the following order: preparation for reuse, recycling, other recovery (including energy recovery), and if this is not possible, disposal.[32]

Construction and demolition waste is defined by the Waste Act as waste generated during construction and demolition activities.[33] When assessing materials generated during construction activities, it is necessary to distinguish whether they are waste, by-products or construction products. The distinction between these categories is of fundamental importance, as it determines whether the Waste Act applies to the item in question or whether it can be treated as an economically usable raw material or product. It is therefore necessary to distinguish between construction and demolition waste and construction products that were used in construction and are removed from the construction site and subsequently reused at the construction site or at another construction site as construction products for their original purpose, as these do not meet the definition of waste set out in Section 4 of the Waste Act.[34] a construction product is thus the result of a targeted production activity, i.e. an object that was created intentionally for the purpose of being placed on the market or for a specific use. In such a case, construction products are not subject to the Waste Act and their use is governed by special legal regulations.[35] For example, recycled building material that has been processed from waste to become a product that meets technical standards can be considered a construction product.[36] It is also necessary to distinguish between construction and demolition

[32] Section 3(2) of the Waste Act.

[33] Section 11(1)(j) of the Waste Act.

[34] According to Section 4 of the Waste Act, any movable thing that a person discards or intends or is obliged to discard.

[35] Act No. 22/1997 Coll., on technical requirements for products, and Act No. 387/2024 Coll., on general product safety and on amendments to certain related acts.

[36] E.g. recycled aggregate, which becomes a certified construction product when it meets the requirements of harmonised standards (e.g. ČSN EN 12620 for concrete or ČSN EN 13242 for civil engineer-

waste and by-products, which the Waste Act defines as movable objects created during production.[37] The essential condition is that the item was created during production but was not the primary objective of that production. Another condition is that it is used without additional processing or only minimal modification, its use complies with other regulations[38], and the criteria for individual materials for assessing compliance with the above conditions, if specified, are met.[39,40] In order for an item to be considered a by-product, it is necessary to keep documentation proving that the above conditions have been met.[41,42] If any of the conditions are not met, it cannot be concluded that the item is a by-product, but rather waste within the meaning of the Waste Act.[43] Although by-product and construction product are different concepts, they may overlap (for example, in the case of construction debris that was generated as part of construction activities and will be used directly on site – it may be a by-product, but if this debris is processed using a technological process and placed on the market, then the resulting material is a product).

In the context of construction activities, construction and demolition waste is considered to be materials generated during the construction, maintenance, reconstruction and demolition of buildings – typically concrete, bricks, tiles, ceramics, wood or glass. Like everyone else, the builder is obliged to prevent the generation of waste during construction, to limit its quantity and hazardous properties.[44] During the construction of a building, the builder acts as the waste producer, regardless of whether they are a natural person, a legal entity or a natural person engaged in business, as the Waste Act defines a waste producer as anyone whose activities

ing works) and its manufacturer issues a declaration of performance (DoP) in accordance with EU Regulation No. 305/2011 (Construction Products Regulation), thereby becoming a fully-fledged and environmentally friendly substitute for natural aggregate in many applications.

37 The item must be „newly created" during production (construction is also considered production, demolition is not).

38 Act No. 22/1997 Coll. on technical requirements for products, Act No. 102/2001 Coll. on general product safety, Act No. 634/1992 Coll. on consumer protection, Act No. 258/2000 Coll. on public health protection, Act No. 114/1992 Coll. on nature and landscape protection, Act No. 201/2012 Coll. on air protection, Act No. 254/2001 Coll. on Water, Act No. 350/2011 Coll. on Chemical Substances and Chemical Mixtures) or directly applicable European Union regulations (e.g. REACH Regulation, CLP Regulation) and will not lead to adverse effects on the environment or human health.

39 For example, Decree No. 273/2021 Coll., for soil/stones.

40 Section 8(1) of the Waste Act.

41 Section 8(3) of the Waste Act.

42 According to the judgment of the Supreme Administrative Court of 29 December 2020, ref. no. 2 As 22/2019-45, demolition debris, i.e. a mixture of building materials resulting from the demolition of a building, is usually waste, but under certain circumstances (if it does not require further processing) it can be a by-product that can be used in the construction of a new building.

43 FILDÁN, Zdeněk. Waste or by-product? A very useful regime, but pay attention to the details. *Envi-Group* [online]. 14 October 2025 [cited 20 October 2025], Available from: https://www.envigroup.cz/odpad-nebo-vedlejsi-produkt-velmi-uzitecny-rezim-ale-pozor-na-detaily.html

44 Section 12(1) of the Waste Act.

generate waste.[45] The Waste Act also expressly regulates situations where waste is generated in the course of carrying out contract work (typically construction) or in the course of subcontracting relationships, in such a way that the waste producer is the person who physically carries out the activity during which the waste is generated (the contractor). When an item becomes waste, ownership of that item passes to the waste producer.[46] However, the waste producer (or waste owner) may also be, for example, the client (builder), if this is agreed in writing with the contractor in the contract for work. [47]

The obligations of the builder as the waste producer include ensuring that construction and demolition waste is transferred to a waste management facility in the appropriate quantity, by means of a written contract before the waste is produced.[48] This also applies to natural persons, with the exception of cases where the amount of construction and demolition waste produced corresponds to the amount of construction and demolition waste that a natural person who is not an entrepreneur can transfer to the municipality (provided that the municipality designates a place where it will collect construction and demolition waste generated in the municipality by natural persons as part of the municipal system).[49] If the builder fails to do so, they will be guilty of an offence under Section 117(1)(l) of the Waste Act, which is committed by a natural person who fails to ensure, in the prescribed manner and in the appropriate quantity, by means of a written contract, the transfer of construction and demolition waste that they do not process themselves. In the case of a legal entity or an entrepreneur, the same offence is regulated in Section 118(1)(c) of the Waste Act. The amount of the fine that may be imposed on a builder for such conduct is up to CZK 100,000 for a natural person and up to CZK 1,000,000 for a legal entity or an entrepreneur.[50]

The builder, as the waste producer (but only in the case of entrepreneurs and legal entities), is also obliged to comply with the procedure for the handling of demolished building materials intended for reuse, by-products and construction and demolition waste in order to ensure the highest possible level of reuse and recycling.[51] In the event of failure to comply with this obligation, the Waste Act contains the elements of an offence in Section 118(1)(f), which consists of failure to

[45] Section 5(1)(a) of the Waste Act.

[46] *Explanatory memorandum to the draft Waste Act* [online]. Ministry of the Environment [cited 23 October 2025], p. 22. Available at: https://dfs.caoh.cz/p/datahistorie/action/duvodova-zprava--odpady.pdf#:~:text=práva%2C%20pokud%20vlastník%20této%20věci%20a%20osoba%2C,je%20však%20rozhodující%20to%2C%20zda%20se%20jí

[47] Section 5(2) of the Waste Act.

[48] Section 15(2)(c) in conjunction with Section 13(1)(e) of the Waste Act.

[49] Section 59(5)(a) of the Waste Act.

[50] Section 117(3)(c) of the Waste Act and Section 118(3)(a) of the Waste Act.

[51] Section 15(2)(f) of the Waste Act.

comply with the established procedure for the handling of demolished construction materials intended for reuse, by-products and construction and demolition waste. This offence can only be committed by an entrepreneur or legal entity, and the maximum fine that can be imposed for such conduct is CZK 10,000,000.[52] The reason why the legislator does not allow natural persons may be the fact that in such a case it is usually not a professional waste producer, but a one-off activity within the private life of that person, where systematic or organised waste management is not expected, and where sanctions for violating detailed waste management obligations would be disproportionately harsh. Similarly, waste producers, again only entrepreneurs and legal entities, are required to keep ongoing records of construction and demolition waste. The ongoing records include, for example, information on the amount of waste, the method of waste management and the waste producer.[53] The ongoing records must be kept for a period of 5 years from the date of entry into the records.[54] In the event of failure to keep ongoing records, a legal entity or entrepreneur may fulfil the elements of an offence under Section 121(4)(a) of the Waste Act, for which a fine of up to CZK 10,000,000 may be imposed.[55] In the event of failure to keep continuous records for at least 5 years, the Waste Act contains further grounds for an offence in Section 121(4)(b), where the fine for such conduct may reach up to CZK 1,000,000.[56]

The builder is also obliged to carefully sort and collect construction and demolition waste separately in order to ensure the necessary quality of sorted material intended for recycling or reuse (e.g. concrete, bricks, plaster, roofing and ceramics).[57] If they collect these materials without separating them, they are committing an offence under Section 117(1)(d) of the Waste Act (natural person), for which the upper limit of the fine is CZK 50,000,[58] or an offence under Section 121(1)(g) of the Waste Act, for which the upper limit of the fine is CZK 10,000,000.[59] Specifically in relation to construction and demolition waste, immediately after making changes to a completed building, landscaping or demolition of a building subject to a permit under the Building Act, the builder must send the municipal authority with extended powers documents proving that all reused construction products, used by-products and construction products that are no longer waste have been used in accordance with the Waste Act and that all materials obtained are construction products or by-products that have not become waste or have been treated as waste in accordance

[52] Section 118(3)(b) of the Waste Act.

[53] Section 94(1) and (2) of the Waste Act.

[54] Section 94(3) of the Waste Act.

[55] Section 121(5)(c) of the Waste Act.

[56] Section 121(5)(b) of the Waste Act.

[57] Section 13(1)(c) of the Waste Act.

[58] Section 117(3)(b) of the Waste Act.

[59] Section 121(5)(c) of the Waste Act.

with this Act and the waste management hierarchy.[60][61] A builder who fails to send the relevant administrative authority the specified documents after completing a change to a finished building, landscaping or demolition of a building,[62] may be punished with a fine of up to CZK 100,000 for a natural person,[63] and a fine of up to CZK 1,000,000 for an entrepreneur and a legal entity.[64]

3.2 Obligations of the builder under the Act on the Protection of Agricultural Land

The Act on the Protection of Agricultural Land protects land as an irreplaceable natural resource. In connection with the sustainable use of natural resources, in particular land, the builder is obliged to use primarily non-agricultural land, undeveloped and underutilised land in built-up areas or in buildable areas, building gaps and areas obtained by removing buildings and facilities located on them.[65] One of the basic obligations of a builder in relation to the protection of the agricultural land fund is the obligation to request consent for withdrawal from the agricultural land fund if agricultural land is to be used for non-agricultural purposes.[66] Consent to withdrawal is a necessary condition for the issuance of follow-up decisions under the Building Act, which underlines its importance in assessing interference with the agricultural land fund and the protection of soil as a non-renewable natural resource. The use of agricultural land for non-agricultural purposes without the above-mentioned consent of the agricultural land fund protection authority constitutes an offence, but according to the wording of the Act, the perpetrator can only be the owner or another person who is authorised to use the agricultural land.[67] The builder could therefore only be punished for this offence if he were the same person as the owner of the building, as the legislator considers, for example, a tenant or leaseholder to be another person authorised to use agricultural land.[68]

Furthermore, when locating a building, the builder is obliged to design the location in such a way that, from the point of view of the protection of agricultural land and other public interests protected by law, there is as little loss of agricultural land as possible, and at the same time, the consequences of the proposed solution

[60] Section 93a(1) of the Waste Act.

[61] If the project requires a unified environmental opinion, the builder would be obliged to send the documents pursuant to Section 93a(1) of the Waste Act to the administrative authority that issued the unified environmental opinion.

[62] Section 117(2)(j) and Section 118(4)(j) of the Waste Act.

[63] Section 117(3)(c) of the Waste Act.

[64] Section 118(5)(b) of the Waste Act.

[65] Section 4(1) of the Agricultural Land Protection Act.

[66] Section 9(1) of the Agricultural Land Protection Act.

[67] Section 20(2)(c) and Section 20a(2)(c) of the Agricultural Land Protection Act.

[68] SOVA, Aleš, BENDOVÁ, Helena, FRANČÍK, Jiří. Act on the Protection of Agricultural Land. Commentary. 1st edition. Prague: C. H. Beck, 2022, pp. 167–178.

on agricultural land must be assessed.[69] In connection with construction activities, there is an obligation to cover the topsoil separately and ensure its economical use or proper storage for the purposes of recultivation, or to ensure its removal and spreading at one's own expense on areas designated by the agricultural land fund protection authority, unless, in justified cases, this authority grants an exemption from the obligation to cover the aforementioned soil; a justified case is considered to be, in particular, the removal of agricultural land from the agricultural land fund.[70]

The above obligations for builders arising from the Act on the Protection of Agricultural Land in connection with the sustainable use of land as a natural resource may be enforced against builders who are natural persons and who carry out construction, mining or industrial activities or carries out landscaping in violation of the obligation to cover the topsoil separately in accordance with Section 20(1)(g) of the Act on the Protection of Agricultural Land, with a fine of up to CZK 1,000,000.[71] If the act concerns a legal entity or entrepreneur, the facts of the offence are regulated in Section 20a(1)(g) of the Act on the Protection of Agricultural Land, and the perpetrator may be fined up to CZK 10,000,000. [72]

Other obligations of the builder, i.e. in particular the obligation to give priority to the use of non-agricultural land (Section 4(1)), to locate the building so as to minimise land take and to assess the impact on the agricultural land fund (Section 7(1)), are not linked to any factual elements of an offence in the Act on the Protection of Agricultural Land. This means that their violation is not directly punishable under the Act on the Protection of Agricultural Land. According to the author, these obligations are therefore predominantly of a material and value-based nature and are enforced indirectly through the decision-making activities of the agricultural land fund protection authorities within the framework of spatial planning or project approvals (e.g. failure to issue the above-mentioned consent to withdraw agricultural land from the Agricultural Land Fund for non-agricultural purposes pursuant to Section 9(1) of the same Act).[73]

3.3 Obligations of the builder under the Nature and Landscape Protection Act

Construction activities can undoubtedly have a significant impact on the natural values of an area and should therefore always be carried out in accordance with nature and landscape protection requirements. Unlike other regulations in the field

[69] Section 7(1) of the Act on the Protection of Agricultural Land.

[70] Section 8(1)(a) of the Act on the Protection of Agricultural Land.

[71] Section 20(3)(a) of the Act on the Protection of Agricultural Land.

[72] Section 20a(3)(a) of the Act on the Protection of Agricultural Land.

[73] These obligations can be perceived within the framework of soil protection as legal principles or normative maxims of high generality and considerable vagueness, which lack a clearer definition of the facts of the case and a precise determination of the legal consequences. See BYDLINSKI, Franz. System und Prinzipien des Privatrechts. Vienna: 1996, pp. 67–68.

of protecting individual components of nature, the legal regulation of nature and landscape protection is of a mixed nature. Certain obligations apply to every builder regardless of the location or nature of the project – these include, for example, the obligations of the builder under Section 5 of the Nature and Landscape Protection Act, which imposes an obligation during the planning, construction and use of buildings, to proceed in such a way as to avoid unnecessary death of plants and injury or death of animals or destruction of their habitats, including disruption of animal migration routes, which can be prevented by technically and economically available means.[74][75] In addition to these universally applicable obligations, however, the Nature and Landscape Protection Act also contains a number of selective restrictions that apply only if the construction activity affects areas or elements with a special legal protection regime (e.g. significant landscape elements, specially protected areas, landscape character or habitats of specially protected species). The scope of the builder's obligations is thus determined by a combination of general legal requirements and the specific factual circumstances of the construction activity or construction project.

If the location and approval of buildings could interfere with the landscape character,[76] such interference must be carried out in such a way that the characteristic natural and cultural values of the area are not disturbed.[77] In situations where the location and approval of buildings could reduce or change the landscape character, it is necessary to obtain the consent of the nature conservation authority in advance.[78] The location of the construction could also lead to damage or destruction of a significant landscape feature or to endanger or weaken its stabilising function.[79] Such activities require the consent of the nature conservation authority in accordance with Section 4(2) of the Nature and Landscape Protection Act. If the construction project affects specially protected areas, their protection zones or sites of European importance or bird areas of the Natura 2000 network, the builder has additional obligations. According to Section 44(2) of the Nature and Landscape Protection Act, it is necessary to obtain the consent of the nature conservation authority to carry out construction, landscaping and excavation work in a specially protected area. Without the consent of the nature conservation authority, construction,

[74] Section 5(3) of the Nature and Landscape Protection Act.

[75] The Nature and Landscape Protection Act explicitly uses the term in the planning, implementation and use of buildings, so it can be concluded that in order for this obligation to apply to the builder, the definition of a building under the new Building Act would have to be fulfilled.

[76] The landscape character is primarily the natural, cultural and historical characteristics of a particular place or area.

[77] Section 12(1) of the Nature and Landscape Protection Act.

[78] Section 12(1) and (2) of the Nature and Landscape Protection Act.

[79] According to Section 3(1)(b) of the Nature and Landscape Protection Act, significant landscape features include forests, peat bogs, watercourses, ponds, lakes and valley floodplains.

use, approval or removal cannot be permitted if it is located in a national park or protected landscape area.[80] If the construction activity requires the removal of trees growing outside a forest, a permit to fell trees must be obtained from the nature conservation authority pursuant to Section 8(1) of the Nature and Landscape Protection Act.[81] In cases where construction work interferes with the protection of memorable trees or areas where specially protected species of plants and animals occur, the builder is obliged to proceed in accordance with the regime of exceptions to prohibitions under Section 56 of the Nature and Landscape Protection Act. This is the strictest tool for biodiversity protection and can only be used if the intended intervention cannot be achieved by other, more environmentally friendly means.

From the point of view of sustainable management of natural resources, it is important that the general obligation of the builder under Section 5(3) of the Nature and Landscape Protection Act, which imposes an obligation to proceed in such a way during construction activities that does not result in excessive death of plants and animals, constitutes the factual basis of an offence,[82] for which a fine of up to CZK 100,000 may be imposed if the offender is a natural person.[83] If the plants and animals are specially protected and the area is a specially protected area, the fine may be doubled. If the same offence is committed by a legal entity or entrepreneur, a fine of up to CZK 2,000,000 may be imposed.[84] Other obligations of the builder, which apply only in the case of interference with protected components of nature, are punishable mainly if the builder fails to comply with the obligation to request the appropriate consent from the nature conservation authority or carries out the interference without an exemption. This includes, for example, the offence of disturbing the landscape without the required consent of the nature conservation authority,[85] for which a fine of up to CZK 20,000 (for natural persons) or up to CZK 2,000,000 (for entrepreneurs and legal entities) may be imposed.[86]

3.4 Obligations of the builder under the Water Act

The Water Act imposes an obligation on builders to manage water in a manner that does not threaten its quantity and quality in connection with the sustainable use of natural resources. When constructing or modifying buildings or changing their use, builders are obliged to ensure water supply and sewage disposal through designated sewerage systems. In areas where there is no sewerage system, wastewater

[80] Section 44(1) of the Nature and Landscape Protection Act.

[81] The Act allows for exceptions to this obligation, for example if the tree is below a certain size or if its condition clearly and immediately endangers life or health or if there is a risk of significant damage.

[82] Section 87(3)(g) and Section 88(2)(i) of the Nature and Landscape Protection Act.

[83] Section 87(4)(c) of the Nature and Landscape Protection Act.

[84] Section 88(3)(b) of the Nature and Landscape Protection Act.

[85] Section 87(2)(h) and Section 88(2)(a) of the Nature and Landscape Protection Act.

[86] Section 87(4)(b) and Section 88(3)(b) of the Nature and Landscape Protection Act.

must be treated before being discharged into surface or groundwater. Only in cases where these solutions are not technically feasible is it possible to choose to accumulate wastewater in an impermeable tank and then transport it to an approved facility for proper disposal. At the same time, the builder must ensure that unwanted rainwater runoff from the building is limited. This can be achieved in particular by collecting it, reusing it or allowing it to seep into the ground, or by evaporation. If these procedures are not possible or sufficient, it is also permissible to retain rainwater and drain it in a controlled manner by other means or by a combination of the above methods. Compliance with these requirements is a prerequisite for the granting of a building permit, its modification, use or additional permit.[87] Although these are fundamental obligations in terms of protecting water resources and the aquatic environment, failure to comply with them is not directly sanctioned by law, as they are not included in the facts of offences under the Water Act. Their enforceability is therefore primarily enforced through licensing processes (e.g. in proceedings for the approval of a project or construction), rather than through subsequent administrative liability.

3.5 Obligations of the builder under the Forest Act

As an important natural component and renewable natural resource, forests are subject to a special legal regime aimed at ensuring their economical and sustainable use in the long term. From the perspective of the sustainable use of natural resources, forests are not only a source of wood, but also perform functions that are important for society as a whole, such as stabilisation, water management, climate regulation and recreation.[88] The law therefore imposes specific obligations on builders, especially if the construction project encroaches on forest land or is located in its immediate vicinity.

The basic legal protection of forests in relation to sustainable use in construction activities is represented in particular by the obligation of the builder to request a binding opinion from the state forest administration authority pursuant to Section 14(2) of the Forest Act if the intended activity may affect interests protected by the Forest Act. This obligation applies not only to direct interference with forest land, but also to the forest protection zone, which is 30 metres from the edge of the forest. If a permit under the new Building Act is required for the construction project, the consent of the state forestry administration authority will be issued in the form of a binding opinion and its content will be binding on the operative part of the building authority's decision.[89]

[87] Section 5(3) of the Water Act.

[88] *Bezručův vrch and its surroundings.* [online]. Lesy ČR. [cited 25 October 2025]. Available from: https://lesycr.cz/wp-content/uploads/2016/12/a1-cedule-funkce-lesa.pdf

[89] Section 171 et seq. of the new Building Act.

In cases where the realisation of the construction project requires the withdrawal of land designated for forest functions, the builder must also obtain consent for the withdrawal in accordance with Section 16 of the Forest Act. Violation of this obligation may result in administrative liability for the builder, because according to Section 54(2)(a) of the Forest Act, the builder commits an offence by withdrawing or restricting the use of land designated for forest functions without a decision by the state forest administration authority on withdrawal or restriction, for which a fine of up to CZK 1,000,000 may be imposed.[90]

In addition to the above consent from the state forestry authority, the builder is obliged under Section 13 of the Forest Act to carry out work on forest land in such a way as to cause as little damage to the forest as possible, and any damage must be repaired without delay. Material from excavations or landscaping should be stored primarily in excavated areas or on designated non-forest land. At the same time, they must continuously create conditions for subsequent recultivation and, after the occupation of the land has ended, carry it out in such a way that the land can return to fulfilling its forest functions. The Act also imposes an obligation to use technical means and technologies that minimise the risk of harmful substances escaping and do not damage the forest environment. The Forest Act does not contain the specific facts of the offence that would include the above obligations, but in the event of failure to comply with the above obligations, the facts of the offence under Section 54(1)(a) of the Forest Act could be fulfilled if the builder caused (a natural person, legal entity or entrepreneur) caused significant damage to the forest and thereby endangered its function, for which the builder could be fined up to CZK 100,000. The tortious conduct in this case does not have a direct link to a specific obligation under the Forest Act and is based on entirely general characteristics (three conditions must be cumulatively met for it to be fulfilled, namely (i) the occurrence of significant damage[91] as a result of the perpetrator's conduct, (ii) the threat to the fulfilment of forest functions, and (iii) the existence of a causal link between the two). The threat to the fulfilment of forest functions can be understood as the creation of conditions in which there is a significant probability of damage to the fulfilment of forest functions.[92] Unlike most environmental protection laws, the Forest Act does not distinguish between natural persons, entrepreneur, and legal persons when determining the possible amount of a fine. On the contrary, it regulates the facts of offences which, by their very nature, can only be committed by natural persons (e.g. smoking in the forest within the framework of general forest use).[93]

[90] Section 54(3)(b) of the Forest Act.

[91] Significant damage is a term used in criminal law, which defines it in Section 138(1)(d) of Act No. 40/2009 Coll., the Criminal Code, as damage amounting to at least CZK 1,000,000.

[92] See the judgment of the Municipal Court in Prague of 25 July 2013, ref. no. 10 A 308/2011-51.

[93] Section 53(1)(s) of the Forest Act.

In addition to the obligations imposed directly on the builder, the process of preparing construction projects also involves obligations on the part of designers, planners and construction document processors to propose solutions that are most appropriate from the point of view of forest protection and other public interests. At the same time, they are obliged to assess the expected impacts of the intended activity on forest land, consider alternative options and propose possible recultivation of the area after completion of the construction.[94] The determination of another use for land designated for forestry purposes cannot be ruled out, but only in compliance with legal procedures and after assessing all relevant circumstances in their mutual context. Again, these obligations are not separately punishable, but the role of the above-mentioned entities cannot be interpreted in isolation from the processes for which the relevant documentation and proposals are prepared.[95] Their enforceability is therefore asserted indirectly, either in the context of building permit proceedings or in the process of preparing and approving spatial planning documentation, where state forestry authorities submit their comments or opinions.

4. Conclusion

Sustainable use of natural resources is a cross-cutting principle in the current legal framework, which is reflected in a whole range of public law instruments regulating construction activities. Although the Czech legal system does not operate with a uniform and comprehensive code that would fully operationalise this principle, individual component regulations – from the Building Act to the Act on the Protection of Agricultural Land, the Nature and Landscape Protection Act, the Forest Act and the Water Act – together form a system whose functional objective is to prevent excessive, irreversible or unjustified interference with natural resources. For builders, this means not only an obligation to comply with specific legal restrictions, but also an obligation to act in such a way during the preparation and implementation of a project that the consequences of their activities do not disrupt the basic ecological balance of protected areas, valuable ecosystems or landscape features.

A particularly significant part of these obligations arises from the Waste Act, which represents a key instrument for ensuring the sustainable use of natural resources in the construction sector. This is due to the fact that construction is responsible for the largest share of waste generation in the Czech Republic, with construction and demolition waste constituting a major portion of the total waste stream. From the perspective of sustainability, the volume of such waste should be minimised, and materials should be reused or recycled to the greatest possible extent. The Waste Act therefore places specific duties on builders to prevent waste

[94] Section 14(1) of the Forest Act.

[95] FLORA, Martin, STANĚK, Jiří, PRŮCHOVÁ, Ivana. *Forest Act. Commentary.* 1st edition. Prague: C. H. Beck, 2022, pp. 557–570.

generation, to sort and manage construction materials, and to prioritise reuse and recycling over disposal, making it one of the most important legal frameworks for achieving sustainable construction practices.

In this context, the article also seeks to assess whether the principle of sustainable use of natural resources is already sufficiently embedded within individual environmental statutes and whether the current legal framework adequately responds to the growing societal demand for resource-efficient and environmentally responsible construction activities. While the Waste Act provides one of the clearest examples of a concrete and enforceable implementation of this principle, other environmental laws incorporate sustainability in a less explicit or operationalised manner. As a result, the degree to which the principle is reflected varies considerably between statutes, which limits the overall coherence and predictability of the regulatory environment for builders.

The analysis shows that the legal regulation is based on a combination of directly enforceable obligations and obligations of a material and value nature, which are enforced indirectly through administrative proceedings. This is particularly typical for obligations that require a professional assessment of the impact of construction activities (e.g. assessment of the impact on the landscape, significant landscape features, specially protected species or water regime), where strict sanctions would be neither appropriate nor possible. On the contrary, obligations whose violation may lead to immediate damage to natural resources – for example, failure to remove topsoil, felling trees without a permit, interference with a forest without a binding opinion or withdrawal of land intended for forest functions – are based on specific facts constituting offences. Nevertheless, it cannot be overlooked that some sanction mechanisms, particularly in the area of forest law, are formulated in a relatively vague manner, which reduces the degree of legal certainty for those subject to them, even though they ensure sufficient flexibility in the protection of complex ecological processes.

Overall, it can be said that the current legislation already provides a relatively robust framework for the protection of natural resources from the negative impacts of construction activities, but its effectiveness lies in a combination of preventive measures (such as the need to obtain consent as a binding basis for project approval) and subsequent administrative liability with potentially high penalties. The effectiveness of sustainable use of natural resources is further limited by the dispersion of legal rules, differing terminology and the absence of a uniform system of sanctions. In the future, it would therefore be appropriate to consider greater harmonisation of legal instruments, in particular with regard to a clearer definition of the facts of offences and the unification of sanction regimes. Sustainable construction activity can only be achieved if the legal framework is not only consistent in terms of values, but also practically predictable and understandable to all actors in the construction process.

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Abstract

Construction activities are traditionally associated with high demand for natural resources and significant environmental impacts. Against the background of growing calls for resource independence, the need for the sustainable management of natural resources is becoming increasingly important. This principle is expressly enshrined in Section 151 of the new Czech Building Act No. 283/2021 Coll. The article analyses the builder‘s legal obligations in construction activities in relation to the sustainable use of natural resources, both under national law and in the broader context of European and international law. It also examines the consequences of breaches of these obligations in terms of the builder‘s administrative liability,

including sanction mechanisms in waste management and in the protection of soil, water, forests and the landscape. The article further assesses whether the principle of sustainable management of natural resources is sufficiently reflected in environmental legislation and whether the current legal framework responds adequately to the growing social demand for the careful and rational use of natural resources in the construction sector.

Key words

Administrative liability of the builder; sustainable use of natural resources; construction law; environmental protection; waste management; administrative offences.