

THEMATIC TITLE	THE MEDIATION OF DISPUTE IN THE ADMINISTRATIVE COURTS: CASE OF COMPENSATION RELATED TO LIABILITY FOR A WRONGFUL ACT TO THE ADMINISTRATIVE AGENCY
KEYWORD	MEDIATION OF DISPUTE/ ADMINISTRATIVE CASE/ COMPENSATION/LIABILITY FOR A WRONGFUL ACT OF THE OFFICER/ ADMINISTRATIVE AGENCY
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ABSTRACT

A mediation of dispute is the method of an alternative dispute resolution that is generally recognized and accepted due to its simplified and uncomplicated process. This method of dispute resolution is able to procure the solution to the dispute rapidly and without excessive expense. In addition, the resolution derived from such process is originated by the participation of both parties to the conflict. For this reasons, this method of dispute resolution may be an appropriate mean to resolve the administrative disputes. In this regard, the administrative disputes may be settled but outside the general procedure whose time period for proceeding may be extensively long and the outcome may not correspond to the intention of both parties.

This thematic paper aims to study the application of the mediation to the resolution of an administrative case concerning a claim for compensation for a wrongful act of which the Ministry of Finance does not require an administrative agency to comply with the Ministry of Finance's

opinion. This kind of the administrative case may be settled by mediation because the administrative agency has a discretionary power to claim for compensation against any compensating person. In this kind of dispute, a long time period for the proceeding until the final decision of the competent jurisdiction may aggravate the damage suffered by the administrative agencies and this shall consequently affect the public interest. Beside, more the time spent during the proceeding, more interest for the payment of the compensation must be borne by the compensating party. The research finds that many jurisdictions, competent to adjudicate the administrative cases, in different countries including Republic of France and Federal Republic of Germany, have acknowledged the problem concerning the delay of the administrative justice and the solution for the dispute that not corresponding to the need of the parties. In this respect, many countries have legislated the written law providing the alternative method for resolution of administrative disputes for the parties to such disputes and authorizing the competent court to proceed the dispute resolution by meditation.

However, the law on the administrative case procedure of Thailand does not provide the provisions relating to the competence of the administrative courts to resolve the administrative disputes by mediation. In order to remedy the problem relating to the administration of the administrative cases in the administrative courts and to render the administrative justice by providing the alternative method for the parties to disputes to be able to voluntary resolve their dispute and obtain the optimal solution corresponding to their expectations within the short period of time, this thematic paper finds that there should be a modification to the law on the administrative case procedure to provide the possibility for the administrative judge to settle the administrative dispute by mediation, especially in the case of administrative disputes relating to the compensation of liabilities for a wrongful act to administrative agencies.