

THEMATIC TITLE	MEDIATION OF DISPUTE BEFORE FILING A LAWSUIT: CASE STUDY OF ADMINISTRATIVE CASE CONCERNING THE ENVIRONMENT
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ABSTRACT

This thematic paper aims to study and apply the disputes before filing a lawsuit to administrative cases relating to the environment. Such cases have special characteristics that are different from other administrative cases due to the damages in environmental cases often cause serious damage to natural resources and human beings. If left too late, it may be difficult to get back in normal. Therefore, it needs to be resolved quickly to keep up with the situation. In this case, there are two ways to resolve such disputes: (1) filing a lawsuit to the Administrative Courts and (2) mediation of disputes. However, environmental litigation still has some problems with factors including undue delays in judicial proceedings and the fact that mediation can only be applied after such cases have been filed to the Administrative Courts. At present, it should be noted that there is no legal provision empowering the Administrative Courts to apply mediation to environmental disputes before filing a lawsuit.

The study found that, in Thailand, there has long applied a mediation before filing a lawsuit, it has also applied the mediation before filing a lawsuit for civil and criminal disputes. However, it does not appear to be applied in administrative disputes. If we consider the laws of the French Republic and the Federal Republic of Germany, it can be seen that these laws have

established rules providing to apply the mediation system before filing a lawsuit be applied in administrative proceedings on the environment. This mediation is a method that can help to remedy the damage caused to the environment in a timely manner because the mediation of environmental dispute is a concise and short process. It shall settle the disputes quickly and appropriately with the nature of environmental disputes.

Having studied and analyzed the problem of mediation before filing a lawsuit on this subject matter, the author recommends that it should amend the Act on establishment of administrative court and administrative court procedure B.E. 2542 (1999) to further empower the Administrative Courts to conduct administrative justice procedures through resolving environmental disputes by means of mediation before filing a lawsuit. Another recommendation is to draft a new Regulation of the General Assembly of the judges of the Supreme Administrative Court on mediation of disputes before filing a lawsuit B.E. (....) to correspond with the said amendment and outline the criteria and procedural issues in applying mediation to environmental disputes before filing a lawsuit.

If such suggestions are implemented, the proceedings of administrative cases concerning the environment will be in line with the juristic method of administrative law relating to the environment allowing timely and effective remedy for the aggrieved or injured persons, as well as reducing financial burden inflicted upon related the parties and reducing the number of disputes filed to the Administrative Courts. In addition, this approach will contribute to the enhancement of effectiveness and achievement of the procedures concerning administrative disputes relating to the environment; thus, ensuring the peoples' right to access to justice by fostering an extra channel to resolving such disputes by reconciliation and peaceful way, allowing further convenience, rapidity, economy and fairness for all parties concerned.