



JURISDICTION FOR EXAMINING CASES IN THE ADMINISTRATIVE COURTS OF INDONESIA AND THAILAND

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ABSTRACT

The authority to examine cases in administrative courts serves as a benchmark for the extent to which a state can provide legal protection for citizens harmed by government actions or decisions. This study aims to analyze and compare the case-examination authority of the State Administrative Court (PTUN) in Indonesia with the Administrative Court in Thailand. This research employs a normative-juridical method with a statutory and comparative approach, supported by secondary data consisting of primary, secondary, and tertiary legal materials analyzed descriptively-analytically. The results show that Indonesia's PTUN, based on Law Number 5 of 1986 in conjunction with Law Number 51 of 2009, adheres to a formal-adversarial mechanism within a tiered court structure under the Supreme Court, whereas Thailand's Administrative Court, based on the Act on Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999), stands separate from the ordinary courts and adopts a more flexible inquisitorial examination style. In terms of effectiveness, the Indonesian system excels in procedural certainty and layered review, while the Thai system excels in the speed of dispute resolution and the breadth of legal protection for citizens. These differences are influenced by normative regulation, institutional structure, procedural approach, and pre-litigation requirements in each country. These findings are expected to serve as a consideration for reforming Indonesia's state administrative court procedural law toward a more responsive direction without sacrificing legal certainty.

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1. INTRODUCTION

Indonesia is a state of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which implies that any government action that has the potential to harm the rights of citizens must be subject to judicial review. As the concept of the welfare state develops, the increasingly broad role of the government has the potential to create disputes between citizens and government bodies or officials, especially in cases of abuse of power or actions that are not in accordance with the law. To ensure legal protection for the community, the Administrative Court (PTUN) was established as a judicial institution authorized to examine, adjudicate, and decide on state administrative disputes, while also serving as a means of legal control over government administrative actions.

The authority to examine cases in the Administrative Court (PTUN) is an important aspect because it is directly related to the absolute and relative competence of the court; an incorrect determination of authority can result in the rejection of a lawsuit, thereby harming the seekers of justice. In practice, differences in interpretation regarding the object of state administrative disputes are still found, especially after the enactment of Law Number 30 of 2014 on Government Administration, which expanded the jurisdiction of the Administrative Court, including the recognition of the concept of positive fictitious decisions and the expansion of dispute objects to include administrative actions and negligence of government officials.

On the other hand, Thailand, as a country that also adheres to the civil law tradition, has an Administrative Court established under the Act on Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999) with relatively broad authority in adjudicating administrative disputes, including actions and negligence of the government. Although both countries adhere to the civil law tradition, there are differences in the scope of authority, types of cases that can be examined, and the institutional status of administrative courts. On that basis, a comparative study of the jurisdiction of the Administrative Court in Indonesia and the Administrative Court in Thailand becomes important to gain a deeper understanding and contribute to the development of administrative law procedures in Indonesia.

Based on the above description, this article outlines three main issues, namely: (1) how the mechanisms and procedures for handling administrative cases in Indonesia and Thailand; (2) the differences in the systems and procedures of administrative courts between the two countries in resolving administrative disputes; and (3) the effectiveness of the administrative courts in Indonesia compared to the administrative courts in Thailand and the factors influencing it.

2. RESEARCH METHODS

This research uses a normative legal research method with a statutory approach and a comparative approach, aiming to compare the regulation of case examination authority between the Administrative Court in Indonesia and the Administrative Court in Thailand in terms of legal basis, scope of authority, types of disputes, and models of legal protection for citizens. This research is descriptive-analytical, meaning it systematically describes the legal provisions regarding the authority of administrative courts while also analyzing their application in judicial practice in both countries. The data sources used are secondary legal materials, which consist of primary legal materials (legislation and relevant court decisions), secondary legal materials (books, scientific journals, and previous research), as well as tertiary legal materials (legal dictionaries and encyclopedias). Data were collected through library research both offline and online, and then qualitatively analyzed by comparing the regulations on administrative court jurisdiction in Indonesia and Thailand to find similarities and differences.

3. RESULT AND ANALYSIS

Mechanism and Procedures for Administrative Court Case Examination in Indonesia and Thailand

In Indonesia, the mechanism for examining cases at the Administrative Court (PTUN) is based on Law Number 5 of 1986 concerning State Administrative Jurisdiction, as amended by Law Number 9 of 2004 and lastly by Law Number 51 of 2009. Based on Article 47 of the law, the Administrative Court (PTUN) is tasked and authorized to examine, decide, and resolve State Administrative disputes arising from the issuance of State Administrative Decisions (KTUN) that are concrete, individual, and final as defined in Article 1 number 9 of the aforementioned law. Before the case is examined at the first level, the plaintiff is generally required to first pursue administrative efforts in accordance with Article 48 of the Administrative Court Law, so that the function of the Administrative Court as a judicial forum can only be accessed after the internal government mechanism does not provide a satisfactory resolution.

The procedure for examination in the Administrative Court begins with the registration of a written lawsuit within a period of ninety days from the date the decision is received or known by the concerned party. Next, the judge conducts a preliminary examination (dismissal process) to assess the completeness of the documents and the court's jurisdiction; lawsuits that do not meet formal requirements can be declared inadmissible (niet ontvankelijk verklaard). If it passes the initial screening, the case is examined through the stages of complaint, response, rebuttal, rejoinder, evidence presentation, conclusion, and finally the verdict. After the enactment of Law Number 30 of 2014 concerning Government Administration, the authority of the Administrative Court (PTUN) was expanded with the recognition of the concept of positive fictitious decisions and the authority to assess the presence or absence of elements of abuse of power as regulated in Article 21 of the law, the procedures of which are further regulated in Supreme Court Regulation Number 4 of 2015 with a shorter examination period, namely a maximum of twenty-one working days at both the first instance and appeal levels.

Unlike Indonesia, the mechanism for examining cases in the Administrative Court of Thailand is based on the Act on Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999). Borwornsak Uwanno explained that the Administrative Court of Thailand has broad authority to review

administrative decisions, government actions, and administrative omissions by state officials since the establishment of the institution. The lawsuit is filed with the competent Administrative Court, followed by a preliminary review stage to assess jurisdiction and the completeness of the documents before proceeding to the main examination of the case. At the substantive examination stage, the Thai legal system is more flexible because judges play an active role in uncovering facts and evidence, rather than solely relying on the initiatives of the parties involved, as is characteristic of the adversarial system. A brief comparison of the two mechanisms can be illustrated in the following table.

Table 1. Comparison of Jurisdiction in Administrative Court Cases between Indonesia's State Administrative Court and Thailand's Administrative Court

No.	Aspect	Indonesia	Thailand
1	Legal Basis	Law No. 5 of 1986 in conjunction with Law No. 9 of 2004 and Law No. 51 of 2009 on the Administrative Court System	The 1997 Constitution of Thailand as the initial legal foundation, and the Act on Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999)
2	Judicial Institution	Administrative Courts under the judicial system headed by the Supreme Court, consisting of the Administrative Court, High Administrative Court, and Supreme Court	Administrative Courts operate separately from the ordinary courts, consisting of the Administrative Court and the Supreme Administrative Court
3	Jurisdiction to Examine Cases	Adjudicates disputes between individuals or private legal entities and administrative bodies or officials arising from the issuance of Administrative Decisions	Adjudicates disputes between citizens and government officials or state organs concerning administrative actions, decisions, or government omissions
4	Subject Matter of Claims	Administrative Decisions that are concrete, individual, and final; expanded to include administrative actions following Law No. 30 of 2014	Administrative orders/decisions, actions of state officials, and administrative omissions since the establishment of the system
5	Filing of Claims	Claims are submitted in writing to the competent Administrative Court within 90 days from the date the decision is received or known	Claims are submitted to the competent Administrative Court, generally within a specified period from the date the administrative action or decision becomes known
6	Preliminary Screening (Dismissal Process)	Judges conduct a preliminary examination to assess completeness and jurisdiction; a claim may be declared inadmissible (<i>niet ontvankelijk verklaard</i>) if it contains formal defects	The Court conducts a preliminary review to assess jurisdiction and the completeness of the documents before proceeding to the examination of the merits
7	Examination of the Merits	Formal and adversarial proceedings consisting of the reading of the claim, response, reply, rejoinder, examination of evidence, conclusions, and judgment	More flexible and inquisitorial proceedings, in which judges take an active role in investigating facts and evidence
8	Legal Remedies	Appeal to the High Administrative Court, cassation to the Supreme Court, and Judicial Review	Appeal directly to the Supreme Administrative Court
9	Nature of Decisions	May annul an Administrative Decision and/or order the administrative authority to issue a new decision	May annul administrative actions or decisions and order corrective measures or compensation

Based on the comparison table, it is evident that both countries place the principle of legality as the foundation of administrative court authority, but differ in the regulation of institutions, the scope of disputed objects, and the pattern of examining the main case. This fundamental difference serves as a basis for further examining the differences in the administrative justice systems and procedures between the two countries, as outlined in the following sub-section.

Differences in the Administrative Court System and Procedures between Indonesia and Thailand in Resolving State Administrative Disputes

From an institutional aspect, the Administrative Court in Indonesia is positioned as one of the executors of judicial power under the Supreme Court, with a tiered examination process starting at the Administrative Court, followed by an appeal to the High Administrative Court, and cassation and review by the Supreme Court. This tiered structure reflects an administrative judiciary model that is integrated with the general judiciary system, even though it is functionally specialized. On the other hand, the Administrative Court in Thailand stands as a judicial environment that is completely separate from the general judiciary, with a two-tier structure consisting of the Administrative Court as the first-instance court and the Supreme Administrative Court as the highest court in administrative disputes. This institutional separation emphasizes Thailand's view of administrative justice as a self-contained legal subsystem, rather than merely a specialized branch of the general judiciary.

As a concrete illustration of the differences in institutional structure, the data on the position, jurisdictional area, and decision execution characteristics of one of the Administrative High Courts in Indonesia and the Administrative Court in Thailand can be depicted in the following table.

Table 2. Institutional Data of the Medan Administrative High Court and the Administrative Court of Thailand

No.	Aspect	Medan High Administrative Court (PTTUN Medan, Indonesia)	Administrative Court, Thailand
1	Legal Basis	Part of the Administrative Court system established under Law No. 5 of 1986, as amended by Law No. 9 of 2004 and Law No. 51 of 2009 on the Administrative Court System, serving as an appellate court	Act on Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999)
2	Judicial Structure/Position	The Medan High Administrative Court (PTTUN Medan), located at Jalan Setia Budi No. 31, Tanjung Sari, Medan Selayang District, Medan City, North Sumatra Province 20132	The Supreme Administrative Court is located in Bangkok and serves as the highest administrative court. First-instance Administrative Courts include the Central Administrative Court and regional/provincial Administrative Courts, including those in Chiang Mai, Songkhla, Khon Kaen, Udon Thani, and Nakhon Ratchasima
3	Territorial Jurisdiction	Covers the provinces of Aceh, North Sumatra, West Sumatra, Riau, and Riau Islands	First-instance Administrative Courts adjudicate disputes between citizens and state officials or government agencies within central and regional/provincial jurisdictions throughout Thailand
4	Access to Case Information	Case information and a directory of judgments can be accessed through the official website of the Medan High Administrative Court	-
5	Characteristics of Judgment Enforcement	-	Provides law enforcement mechanisms and forced monetary measures (forced money) similar to compulsory measures in Indonesia, with specific procedures for reviewing environmental facts and waiving court fees under certain conditions

The data confirms that the Medan Administrative High Court, as an appellate court in Indonesia, has a jurisdiction limited to certain provinces according to the Supreme Court's territorial division, whereas the First Instance Administrative Courts in Thailand are spread across central and regional courts to address administrative disputes in various regions. Another noticeable difference is the specificity of the decision execution mechanism in the Administrative Court of Thailand, which includes forced money fines accompanied by environmental fact review procedures and exemption from court fees under certain conditions, as an additional instrument beyond the coercive measures commonly known in the Indonesian system.

From the aspect of the scope of the disputed object, the Indonesian system initially limited the object of the lawsuit to written, concrete, individual, and final State Administrative Decisions. Only after the enactment of Law Number 30 of 2014 on Government Administration was the scope of dispute objects expanded to include administrative actions and negligence of government officials, including the examination of elements of abuse of authority. Unlike Thailand, which from the outset of the establishment of the Administrative Court has recognized disputes arising from administrative actions or government negligence (administrative omission) as part of the court's jurisdiction. This difference in starting points shows that the expansion of the PTUN's authority in Indonesia is evolutionary and reactive to the developing legal needs, while Thailand places the broad scope of authority as the initial design of its administrative judiciary system.

From the procedural aspect, the administrative court procedure in Indonesia requires the completion of administrative efforts first as a formal prerequisite before the case can be examined by the court (Article 48 of the Administrative Court Law), and adopts a relatively formal-adversarial examination pattern with stages of complaint, response, rebuttal, surrebuttal, evidence presentation, and conclusion that must be followed sequentially. The procedural process in the Administrative Court of Thailand tends to be more flexible, with a more active role for judges in fact-finding (inquisitorial), allowing for a more concise dispute resolution process without compromising the thoroughness in assessing the substance of the case. These differences in procedural approaches also have implications for the duration of case resolution and the level of accessibility for citizens to the administrative justice forum.

From the aspect of legal remedies and the nature of the decisions, the Indonesian system provides three levels of legal remedies: an appeal to the High Administrative Court, cassation to the Supreme Court, and judicial review, with decisions that can include the annulment of administrative actions and/or the obligation to issue a new decision. Meanwhile, Thailand only recognizes one level of legal remedy in the form of an appeal to the Supreme Administrative Court, with decisions that can annul administrative actions or decisions and simultaneously order corrections or compensation to the aggrieved party. In summary, the legal recourse structure in Thailand has the potential to expedite certainty in a dispute, whereas the tiered structure in Indonesia prioritizes layered scrutiny of a decision before it becomes legally binding.

The Effectiveness of Administrative Courts in Indonesia Compared to Administrative Courts in Thailand and the Factors Influencing It

The assessment of the effectiveness of both administrative justice systems cannot be separated from the indicators used to measure it. If effectiveness is measured in terms of legal certainty and procedural orderliness, the Indonesian system shows superiority through detailed regulations regarding the time limits for filing lawsuits, standardized examination stages, and layered legal recourse options, thereby minimizing arbitrariness in decision-making. This structure provides certainty for the parties regarding the procedures and stages that must be followed in litigation at the Administrative Court, even though the consequence is that the dispute resolution process tends to take a longer time, especially with the prerequisite of completing administrative efforts first.

On the other hand, if effectiveness is measured by the speed of case resolution and the breadth of legal protection for citizens, the Thai system appears more progressive and responsive. This is reflected in the scope of disputed objects that from the beginning have included administrative actions and government negligence, as well as the active role of judges in fact-finding, which allows for a more concise resolution of cases. The broad authority of the Administrative Court strengthens the court's function as an instrument of judicial control over executive power, while also increasing citizens' accessibility to the administrative justice forum.

There are several factors that influence the differences in effectiveness levels. First, the factor of normative regulation, where the expansion of the PTUN's authority in Indonesia has only occurred gradually through Law Number 30 of 2014, while Thailand has designed a broad authority since the establishment of the Administrative Court in 1999. Second, the factor of institutional structure, where the separation of the Administrative Court from the general judiciary in Thailand provides greater independence and specialization in handling administrative disputes, while the Administrative Court in Indonesia remains within the same branch of the judiciary as the general courts under the Supreme Court. Third, the factor of procedural approach, where the inquisitorial model adopted by Thailand allows judges more room to actively uncover substantive truth, unlike the adversarial model that emphasizes the initiative of the parties in the Indonesian system. Fourth, the factor of procedural prerequisites, namely the obligation to pursue administrative remedies first in Indonesia, which on

one hand provides an opportunity for internal government dispute resolution, but on the other hand has the potential to prolong the dispute resolution process that ultimately must be examined by the court.

Thus, it can be concluded that the two administrative justice systems cannot be absolutely judged as superior to one another, but rather reflect different legal policy choices according to the constitutional context of each country. The Indonesian system is more prominent in terms of procedural certainty and layered scrutiny, while the Thai system excels in the breadth of legal protection and the speed of dispute resolution. Both orientations are fundamentally directed toward realizing the function of administrative justice as a means of legal control over government actions and as an instrument of legal protection for citizens, so these comparative findings can serve as a consideration for the reform of administrative court procedures in Indonesia toward a more responsive direction without sacrificing legal certainty.

4. CONCLUSION

Based on the results of the normative-comparative study above, three main points can be concluded. First, the mechanism for case examination at the Indonesian Administrative Court is based on Law No. 5 of 1986 jo. Law No. 51 of 2009 with a formal-adversarial style and administrative effort prerequisites, whereas the Thai Administrative Court is based on Act B.E. 2542 (1999) with a more flexible inquisitorial style. Second, the two countries differ in institutional structure, scope of disputed objects, procedural practices, and levels of legal recourse; the PTUN is part of the judiciary under the Supreme Court, while the Administrative Court of Thailand operates separately with a more streamlined legal recourse system. Third, the effectiveness of both systems is relatively dependent on the indicators used: the Indonesian system excels in procedural certainty and layered testing, while the Thai system excels in dispute resolution speed and the breadth of legal protection, influenced by factors such as normative regulations, institutional structure, procedural approach, and litigation prerequisites. It is recommended that the reform of administrative court procedural law in Indonesia consider strengthening the active role of judges in evidence presentation and simplifying the levels of legal recourse to enhance accessibility and speed of dispute resolution without sacrificing legal certainty.

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