

**PERBANDINGAN KEWENANGAN EKSEKUSI PUTUSAN
PERADILAN TATA USAHA NEGARA: ANALISIS
KELEMBAGAAN DAN MEKANISME KEPATUHAN ANTARA
INDONESIA DAN THAILAND**

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Comparative Authority in the Execution of Administrative Court Decisions: Institutional and Compliance Mechanisms in Indonesia and Thailand

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Abstract

This study examines the comparative authority of administrative court decision enforcement in Indonesia and Thailand, focusing on institutional frameworks and compliance mechanisms. Employing a normative juridical method through literature review and statutory analysis, the findings reveal fundamental differences in institutional arrangements. Thailand has established the Legal Execution Department under the Ministry of Justice as a specialized body to enforce court decisions, whereas Indonesia lacks a dedicated execution institution. In terms of compliance, Thailand applies the doctrine of contempt of court, enabling the imposition of criminal sanctions such as imprisonment or administrative fines on non-compliant officials. Indonesia, by contrast, relies primarily on coercive fines (*dwangsom*), whose effectiveness remains limited. Both countries share the use of *dwangsom* as a coercive instrument, yet differ in judicial hierarchy: Indonesia operates a three-tier system (First Instance, Appeal, and Cassation), while Thailand maintains a two-tier system (Administrative Court of First Instance and Supreme Administrative Court). This comparative analysis provides recommendations for strengthening Indonesia's administrative justice system, particularly through the establishment of an execution authority, to ensure effective protection of citizens' rights.

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INTRODUCTION

Administrative justice is a fundamental instrument in realizing the principle of the rule of law (*rechtsstaat*), which places the law as the foundation of governance. In this context, administrative justice serves as a mechanism to oversee government actions in order to ensure the protection of citizens' rights and prevent the abuse of authority by public officials (Vickers, 2021). Therefore, the existence of administrative justice is not only oriented toward dispute resolution but also toward fostering accountability in governance. Indonesia and Thailand, as countries in the Southeast Asian region, have evolving administrative justice systems with distinct characteristics. These differences are influenced by the legal systems, institutional structures, and policies regarding

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the enforcement of administrative law in each country (Toy-Cronin, 2022). In practice, the effectiveness of an administrative judiciary system is determined not only by the case adjudication process but also by the ability to enforce final and binding court decisions.

One of the main problems in Indonesia's administrative justice system is the weak enforcement of court decisions. The absence of a specialized enforcement agency and the limited mechanisms for compelling non-compliant officials to comply result in low levels of compliance with court decisions (Wiratraman, 2022). This situation leads to suboptimal legal protection for the public and creates legal uncertainty. In contrast, Thailand has developed a more effective administrative justice system in ensuring the enforcement of decisions. The existence of an enforcement agency and the application of contempt of court mechanisms allow courts to impose strict sanctions on parties that fail to comply with rulings (Leyland, 2025). Furthermore, Thailand's administrative justice system is supported by a simpler judicial structure, enabling dispute resolution and the enforcement of rulings to be conducted more efficiently.

These differences indicate a gap in the effectiveness of the enforcement of administrative court decisions between Indonesia and Thailand. Although there have been several studies comparing the administrative court systems in both countries, research specifically highlighting the authority to enforce decisions as an indicator of judicial effectiveness remains limited (Amalia et al., 2024). Therefore, a more in-depth analysis is needed to understand the differences in decision enforcement mechanisms and their implications for legal protection for the public.

Meanwhile, the development of local government in Thailand the only country in Southeast Asia that did not gain its independence from colonial rule has followed the evolution of a government based on an absolute monarchy. Since then, Thailand has implemented a system of local government for 70 years, drawing on examples from European nations, where the royal family studied and adopted these models through the creation of a constitution acceptable to the Thai people. To date, Thailand has amended its constitution 16 times, with the most recent constitution enacted in 1998, which contains numerous provisions governing local government. However, in its development, Thailand's legal system has also been influenced by the common law system, as evidenced by the use of Supreme Court rulings that exert a strong influence on the decisions of lower courts (Kedutaan Besar Republik Indonesia Bangkok, 2020).

The court systems of Indonesia and Thailand differ in terms of both the judicial hierarchy and the administrative hierarchy. For instance, the Indonesian Administrative Court system has three levels, similar to the district court system: the first-instance Administrative Court, the appellate level at the High Court, and the cassation level at the Supreme Court. In contrast, Thailand's judicial process is simpler, consisting only of the Administrative Court of First Instance (Level I) and the Supreme Administrative Court (Level II) (Nasution, 2020).

Administrative justice is an important mechanism for ensuring that citizens' rights are protected. Given the importance of legal protection for the people, more resources are needed to ensure the system runs smoothly and achieves its objectives. The existence of administrative justice is inseparable from the theory of the rule of law, as it constitutes one of the fundamental elements or characteristics of a *rechtsstaat*.

This research is important given the growing demands for

accountability, transparency, and the effectiveness of law enforcement in the administration of government. Furthermore, this research is expected to contribute to the development of administrative law theory, particularly regarding the effectiveness of court decision enforcement, and to serve as a basis for recommendations in future efforts to reform the Administrative Court system in Indonesia.

METHODS

This study employs a normative legal methodology, which involves legal research conducted by examining literature or secondary data as the primary sources. This method is used to examine legal norms related to the authority to enforce decisions of the Administrative Court in Indonesia and the Administrative Court in Thailand. The approaches employed include the statutory approach and the comparative approach, aimed at analyzing the similarities and differences between the legal systems of the two countries.

Normative legal research focuses on the study of legal norms found in legislation and court decisions (Engkizar et al., 2025; Marzuki, 2022; Mulyana & Kusumaatmaja, 2022; Wora et al., 2026). Therefore, this study uses primary, secondary, and tertiary legal materials as its main data sources. Primary legal materials include legislation related to Administrative Courts in Indonesia and administrative law in Thailand. Secondary legal materials consist of books, scientific journals, and relevant previous research findings, while tertiary legal materials include legal dictionaries and other supporting sources.

Data collection was conducted through library research. The data obtained was then analyzed qualitatively through several stages: problem identification, collection and classification of legal materials, comparative analysis of the two legal systems, and systematic drawing of conclusions.

RESULT AND DISCUSSION

A Comparison of the Authority to Enforce Administrative Court Decisions in Indonesia and Thailand

Administrative courts play a vital role in ensuring that citizens' rights are protected. Given the importance of legal protection for the people, more mechanisms are needed to ensure the system functions smoothly and achieves its objectives. The existence of administrative courts is inseparable from the theory of the rule of law, as they constitute one of the fundamental elements or characteristics of a rule-of-law state (*rechtsstaat*).

A fundamental difference in the mechanisms for enforcing Administrative Court (PTUN) rulings between Indonesia and Thailand is that Thailand has a Legal Execution Department. This Legal Execution Department is an agency under the Ministry of Justice and is part of the Administrative Judiciary Cluster.

Although Thailand's system of government differs from Indonesia's, Thailand adheres to the Continental European legal system (*rechtsstaat*) with strong influences from the Anglo-Saxon system (rule of law). As for the similarities in the mechanisms for enforcing administrative court decisions between the two, both Indonesia and Thailand use enforcement mechanisms to ensure compliance with decisions of the State Administrative Court (PTUN) by the defendant. The mechanisms used are through a monetary penalty (*dwangsom*) and an order to the superior administrative official to subsequently instruct the relevant Administrative Court official to carry out the Court's decision.

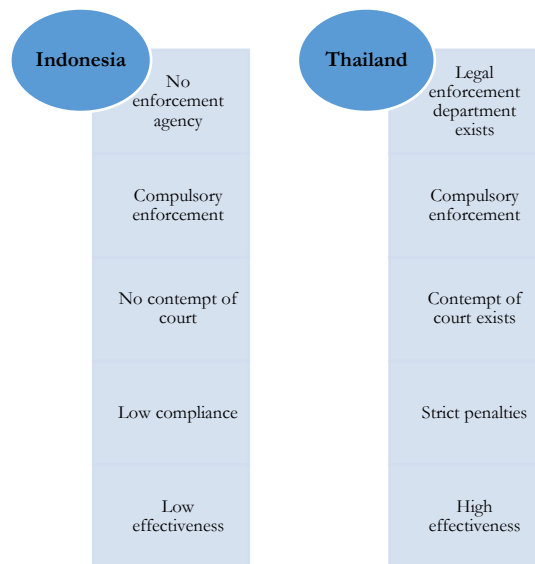


Fig 1. Comparison of the Authority to Enforce Administrative Court Decisions in Indonesia and Thailand

Thailand already has an enforcement agency that functionally carries out enforcement against parties involved in cases, whereas in Indonesia there is no enforcement agency for Administrative Court (PTUN) rulings, regarding the authority of the Thai administrative courts to carry out actual enforcement of administrative court rulings, namely by applying the Civil Procedure Code mutatis mutandis to the assets of state administrative officials who disregard court rulings. This concept also makes it clear that the assets subject to execution are the personal assets of the TUN official who violated the ruling, not state funds held by the public institution where the TUN official works. Thailand has a contempt of court mechanism whereby TUN officials who fail to comply with court orders may face serious sanctions; namely, the court may impose coercive measures or impose disciplinary action against the TUN official involved in the case, or, without a court hearing, impose a prison sentence on the grounds of contempt of court.

By comparing the mechanisms in Indonesia and Thailand, it is hoped that this will provide an overview of the strengths and weaknesses of Administrative Court (PTUN) rulings, which can then serve as recommendations for improving the implementation of administrative court rulings in Indonesia.

The scope of jurisdiction of Administrative Court rulings in Indonesia and Thailand

The court proceedings in Indonesia and Thailand differ in terms of both the judicial hierarchy and the administrative hierarchy. Among these differences is the three-tiered structure of the Administrative Court system in Indonesia, which is similar to the district court system: the first-instance Administrative Court, the appellate level at the High Court, and the cassation level at the Supreme Court. In contrast, Thailand's judicial process is simpler, consisting only of the Administrative Court of First Instance (first level) and the Supreme Administrative Court (second level) (Nasution, 2020).

The Administrative Court is one of the branches of the judiciary tasked with examining, adjudicating, and resolving disputes in the field of administrative law. This Administrative Court is regulated by Law of the Republic of Indonesia No. 5 of 1986 on the Administrative Court, which was amended by Law of the Republic of Indonesia No. 9 of 2004 on Amendments to Law No. 5 of 1986 on the Administrative Court, and has since been further amended by Law No. 51 of 2009.

With three levels of courts in Indonesia, the Court of First Instance more commonly known as the District Court is the first venue where a legal case is filed and heard. These courts are established by the Minister of Justice with the approval of the Supreme Court and have a jurisdiction covering a single regency or city. The District Court is responsible for reviewing the legality of an arrest or detention, as requested by the suspect's family or legal counsel to the presiding judge, accompanied by supporting grounds. The court of first instance has the authority to examine and adjudicate cases in accordance with the provisions of the law, particularly regarding the legality of arrests, detentions, the termination of investigations, and the dismissal of charges, as well as to award compensation and/or rehabilitation to a person whose case was terminated at the investigation or prosecution stage (Leyland, 2025).

The Court of Second Instance, or High Court, is a judicial institution that serves as an appellate court for decisions rendered by District Courts. This court is established by law and has a jurisdiction that covers a single province. The second-level court has the function of serving as a leader for district courts within its jurisdiction, overseeing the conduct of judicial proceedings in its jurisdiction to ensure that the judicial process proceeds in accordance with applicable procedures and regulations, and supervising and reviewing the performance of district court judges within its jurisdiction, as well as issuing warnings, reprimands, and guidance to district courts in the interest of the state and justice. The second-level court has the authority to hear cases decided by District Courts within its jurisdiction that have been appealed, and to order the submission of various case files and documents for review and to assess the competence and diligence of judges.

The Supreme Court is the highest court in Indonesia and is located in the nation's capital or another location designated by the president. The Supreme Court oversees the entire judicial system in Indonesia and acts as the court of cassation. The Supreme Court serves as the apex of the entire judiciary and the highest court for all judicial levels, leading and supervising the administration of justice throughout Indonesia to ensure it is conducted diligently and fairly, and closely monitoring the conduct of judges across the entire judicial system. Furthermore, in the interest of the state and justice, the Supreme Court has the function of issuing warnings, reprimands, and necessary guidance, either through individual letters or circulars. By understanding the structure and functions of each level of the judicial system, we can better comprehend how the judicial system in Indonesia operates to uphold justice and the rule of law.

Therefore, a judge's decision at the trial court level may be reviewed through an appeal process at the High Court and ultimately through a cassation appeal at the Supreme Court. In practice, a cassation decision may even be reviewed again by the Supreme Court, provided that new evidence (*novum*) is discovered. This process is commonly referred to as a "review" (Sulthoni, 2025).

Meanwhile, in Thailand's administrative justice system, the Administrative Court (first instance) has the authority to review actions taken by administrative agencies or government officials in accordance with the law, such as the issuance of regulations or orders, the implementation or restriction of other actions, failure to perform duties mandated by law or performing such duties with unreasonable delay, and other wrongful acts or obligations. In addition, the Administrative Court (first instance) has the authority to resolve disputes arising from administrative contracts. Meanwhile, the Supreme Administrative Court (second instance) has the authority to review the decisions of quasi-judicial commissions, as well as the legality of Royal Decrees or budgets issued by or with the approval of the Council of Ministers. However, certain actions by

administrative agencies or government officials that are considered administrative actions cannot be reviewed by administrative courts, as specified in the laws establishing administrative courts and governing administrative court procedures; these include actions concerning military discipline, actions by the Judicial Commission under the law on the judicial service, or actions falling within the jurisdiction of the Juvenile and Family Court, Labor Courts, Tax Courts, Intellectual Property and International Trade Courts, Bankruptcy Courts, or other specialized courts. In addition to actions that cannot be reviewed as specified by law, there are actions exempt from judicial review, including governmental actions and administrative actions (IASAJ, 2025).

Types of Disputes That Can Be Heard and Decided by the Administrative Court in Indonesia and the Administrative Court in Thailand

An administrative decision is a written ruling issued by an administrative body or official in accordance with laws and regulations; it is concrete, individual, and final, and has legal consequences for an individual or a private legal entity. Pursuant to Law No. 5 of 1986 on Administrative Courts, as amended by Law No. 51 of 2009, the Administrative Court (PTUN) has the authority to issue such decisions (ADP-LAWOFFICE, 2025).

Administrative Courts Administrative Court (PTUN) rulings in Indonesia have broad authority to resolve administrative disputes between citizens and the government. This authority includes the resolution of administrative disputes arising from the issuance of an Administrative Decision (KTUN), which is a written decision that is concrete, individual, and final, and has legal consequences for a natural person or a civil legal entity. In this context, Administrative Court rulings serve as a judicial forum that provides a venue for the public to challenge government administrative actions deemed detrimental.

In addition, the Administrative Court (PTUN) also has the authority to hear lawsuits against Administrative Decisions (KTUN) that are deemed to conflict with laws and regulations or to violate the rights and interests of certain parties. This authority reflects the function of judicial review over government actions to prevent the abuse of power. Furthermore, the Administrative Court (PTUN) plays a crucial role in assessing the validity of an Administrative Decision (KTUN), both from formal and material aspects, including evaluating the legal basis for its issuance, the authority of the official issuing the decision, and the procedures followed during the issuance process. In a broader context, Administrative Court (PTUN) rulings also serve as a legal protection mechanism for the public against arbitrary government administrative actions. Thus, the existence of Administrative Court (PTUN) rulings is not only oriented toward dispute resolution but also toward upholding the rule of law and protecting the rights of citizens.

Although it has broad jurisdiction, there are certain limitations on the subjects of disputes that may be reviewed by the Administrative Court (PTUN). Certain decisions fall outside the jurisdiction of the State Administrative Court (PTUN), including political decisions such as the appointment or dismissal of high-ranking government officials, decisions in the military and national security sectors, general decisions such as legislation, and non-final decisions such as recommendations or proposals. These limitations indicate that not all government actions can be challenged through the administrative judicial process. On the other hand, the Administrative Court in Thailand plays a broader role in overseeing the actions of administrative agencies and state officials. This court not only reviews the legality of administrative decisions but also monitors the fulfillment of legal obligations by administrative agencies,

including in cases of abuse of authority or negligence in the performance of duties. This reflects a more comprehensive oversight function regarding government actions.

Pursuant to Article 9 of the Act on the Establishment of the Administrative Court and the Procedures of the Administrative Court of Thailand, the court has jurisdiction to hear various types of administrative disputes. Such disputes include violations committed by administrative agencies resulting from actions beyond their authority or non-compliance with legal procedures, neglect of official duties or unreasonable delays in the performance of duties, as well as other violations arising in the performance of administrative functions. In addition, the court also has the authority to handle disputes related to administrative contracts as well as other cases specifically designated by law to fall within the jurisdiction of the administrative court.

Furthermore, Thailand's administrative legal system comprehensively regulates various aspects of government administration, including the functions of ministries, local governments, and regulatory agencies. These regulations aim to ensure transparency, fairness, and accountability in every administrative decision that affects the public. Its scope covers various strategic areas such as business licensing, immigration policy, spatial planning and land use, public procurement, as well as taxation and customs. In this regard, the Administrative Procedure Act B.E. 2539 (1996) plays a crucial role in ensuring procedural fairness in every administrative decision-making process. With this comprehensive legal framework in place, the Administrative Courts in Thailand hold a strong position in ensuring oversight of government actions while providing effective legal protection for the public.

Limitations on the Scope of Intervention by Administrative Courts in Indonesia and Thailand

An intervening defendant is a third party with a legal interest in an administrative dispute who files a motion to participate as a defendant in the proceedings because the ruling on the dispute may affect their rights or interests. In administrative disputes, a third party with a legal interest (an intervening party) may file a motion to participate as a party to the case. Such a party may choose to side with the plaintiff, the defendant, or act independently in accordance with its interests. Provisions regarding intervening parties in administrative law disputes are regulated in Article 83(1) and (2) of the Law on Administrative Court Decisions (PTUN) and its amendments, which state: ([Hukumonline, 2025](#)).

During the proceedings, any person with an interest in a dispute involving another party currently being heard by the Court whether on their own initiative by filing a petition or at the initiative of the judge may intervene in the administrative dispute and act as: first, a party defending their rights; second, a party joining one of the disputing parties. Third, the petition referred to in paragraph (1) may be granted or denied by the Court through a decision recorded in the court minutes.

A motion to intervene may be filed on its own initiative by an interested party through a written letter addressed to the Chief Judge of the Administrative Court "Administrative Court Decision (PTUN)". The request is then forwarded to the panel of judges hearing the main dispute, accompanied by a statement of the intervening party's legal interest in the subject matter of the dispute. Although the request is submitted to the court president, the authority to review and decide on the request through an interlocutory ruling rests with the panel of judges. If the motion is granted, the intervening party may become an intervening defendant or another party acquiring legal rights and obligations in

the administrative dispute. The intervening party may join the administrative dispute in accordance with the principle of *audi alteram partem* (every party has the right to be heard) (Perdana et al., 2025).

In administrative law disputes, a judge has the authority to summon an intervening party if the judge determines that the intervening party has an interest related to the dispute. This judicial initiative is known as the judge's discretion to summon an intervening party; in principle, the judge acts passively, as they merely examine and rule based on the plaintiff's complaint against the administrative official as the defendant

However, under certain conditions, the judge may exercise this initiative to summon an intervening party with a direct interest in the subject matter of the dispute, to uncover additional facts related to the intervening party's legal interests, and/or to ensure that the ruling does not infringe upon the rights of others. An intervening party summoned at the judge's initiative may choose to act as a party defending its own rights or to join one of the disputing parties. Such an intervening party may be a legal entity or a private individual with an interest in the dispute (Wangge et al., 2021).

The Thai Administrative Court has clearly defined limits on its intervention and jurisdiction, governed primarily by the Act on the Establishment of the Administrative Court and Administrative Court Procedures B.E. 2542 (1999). Administrative cases typically begin in the Administrative Court of First Instance, unless the law expressly states that the complaint must be filed with the Supreme Administrative Court. The Supreme Administrative Court has jurisdiction over four distinct categories of administrative cases. These include: (Legal, 2025).

First, cases involving disputes over decisions of quasi-judicial commissions, as determined by the General Assembly of Judges of the Supreme Administrative Court. Disputes regarding Royal Decrees or regulations issued by the Council of Ministers or with its approval. Second, a case that, by law, falls within the jurisdiction of the Supreme Administrative Court. Third, a case in which a judgment or order of a first-instance administrative court is challenged through an appeal.

The First-Instance Administrative Court has the authority to review actions taken by an administrative body or government official in accordance with the law, such as the issuance of local regulations or orders, the implementation or restriction of other actions, failure to perform duties mandated by law or performing such duties with unreasonable delay, and other wrongful acts or liabilities. In addition, the Administrative Court has the authority to resolve disputes arising from administrative contracts. Meanwhile, the Supreme Administrative Court has the authority to review the decisions of quasi-judicial commissions, and the legality of Royal Decrees or local regulations issued by or with the approval of the Council of Ministers. However, certain actions by administrative bodies or government officials that are considered administrative actions may not be subject to review by the Administrative Court, as provided for in the Law on the Establishment of the Administrative Court and Administrative Court Procedures actions related to military discipline, actions of the Judicial Commission under laws on the judicial service, or actions falling within the jurisdiction of the Juvenile and Family Court, the Labor Court, the Tax Court, the Intellectual Property and International Trade Court, the Bankruptcy Court, or other specialized courts. In addition to actions that cannot be reviewed as provided by law, there are actions exempt from judicial review, government actions, and administrative actions (IASAJ, 2025).

The scope of authority exercised by administrative judges varies

depending on the nature of the action in question. Judges have the authority to review the legality of administrative actions, whether they involve the issuance of regulations or orders, or lawful acts or omissions. They may also determine whether an administrative body or public official acted improperly, is legally liable, or neglected their duties or performed them with unreasonable delay. Meanwhile, in disputes arising from administrative contracts, judges have the authority only to resolve disputes between administrative bodies and private individuals who are contracting parties.

Based on the principle of separation of powers, the Administrative Court, as a branch of the judiciary, must not expand its authority by directly exercising executive power; thus, it cannot substitute the executive's analysis in modifying administrative actions. However, the Court may provide guidance regarding the implementation of its decisions. Judges have the authority to revoke local regulations or orders, or to order the restriction of an action. In a ruling, they may determine the effect of the invalidity of an administrative action whether it applies retroactively, non-retroactively, or prospectively as of a specific time or under specific conditions. Judges may also provide guidance regarding the implementation of a ruling. However, they do not have the authority to alter administrative actions by substituting their own analysis.

If the Administrative Court finds that an administrative agency or public official has failed to comply with a decision of the Administrative Court properly or in full, or has complied with such a decision with undue delay, the Court may impose an administrative fine, not exceeding fifty thousand baht per instance, on such administrative agency or public official. If the public official fails to pay the fine, the Court may issue an execution order against the public official's property.

CONCLUSION

Based on the research findings, it can be concluded that there are significant differences between the authority and enforcement mechanisms of Administrative Court rulings in Indonesia and Thailand. Indonesia still faces challenges in the effective enforcement of rulings due to the absence of a specialized enforcement agency and weak enforcement mechanisms against non-compliant officials. In contrast, Thailand demonstrates a more effective system through the existence of an enforcement agency and the application of contempt of court mechanisms that impose strict sanctions. These differences indicate that the effectiveness of administrative justice is determined not only by the authority to adjudicate but also by the power to enforce decisions. Thus, the research objective is answered: Thailand possesses stronger mechanisms to ensure compliance with court decisions compared to Indonesia. As a recommendation, Indonesia should consider establishing a specialized enforcement agency and strengthening sanction mechanisms against officials who fail to implement court rulings. This step is crucial for enhancing the effectiveness of Administrative Court rulings (PTUN) in providing legal protection and ensuring legal certainty for the public.

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