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Exploring the Effectiveness of Mediation in Resolving Disputes in the Indonesian Administrative Court

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Abstract

This study analyzes mediation in administrative dispute resolution in Indonesian Administrative Courts. The settlement of administrative disputes through mediation is not recognized in the Administrative Court procedural law. Mediation in the dispute resolution process in Administrative Courts is still a matter of debate. One of the parties to the dispute is a public body or official who is included in the realm of public law, so that mediation is not possible. The execution of Administrative Court decisions that have permanent legal force does not guarantee justice and legal certainty. This research aims to analyze the development and implementation of mediation in settlement of public disputes in Administrative Courts. The research method used is doctrinal research or library research with secondary data sources in the form of legislation on Administrative Courts, Supreme Court regulations on mediation, and scientific journals of research results. The results showed that mediation in public dispute resolution is used as an alternative to dispute resolution and has

long been applied in several countries. Mediation in administrative dispute resolution can be carried out in two ways. First, mediation can be carried out outside the Administrative Court, and then the lawsuit is revoked. Second, mediation can be carried out through Court-connected mediation in the Administrative Court. There is a need to develop and strengthen the application of Court-connected mediation for administrative dispute resolution from the aspects of procedural law and Administrative Court resources that support the mediation process.

KEYWORDS *Effectiveness Mediation, Dispute Resolution, Administrative Court*

Introduction

There is an assumption that mediation is not possible in public law dispute resolution. This is because one of the parties to the dispute is a public body or official. Although the subject public official also wants to resolve the dispute as soon as possible, reaching an appropriate compromise. Mediation in public dispute resolution is a positive step. This is because it can provide access to justice, help improve the quality of Court decisions, and settle disputes in Court through dialogue, which can lead to solutions. Positive communication between the government and the public will contribute to improving legal awareness and legal culture.[1]

Mediation as an alternative to dispute resolution has long been practiced in several countries. Although mediation is not a mandatory requirement for Court proceedings, refusal to mediate can have negative consequences for the parties in terms of cost sharing. Courts should continue to emphasize its importance in the early resolution of disputes, including public law disputes.[2]

The existence and strengthening of Court settlement and Court mediation can provide an opportunity to ensure common goals, the satisfaction of individual interests, and faster settlements. The fact of settlement in Court with the term "Court settlement" and not as "settlement", as the term "settlement"

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[1] Nesterova Iryna Anatoliyvna and Shelever Natalya Vasylivna, "Mediation as an Alternative Method of Public Legal Disputes Solving," *Проблеми Законності*, no. 145 (2019): 169–78, https://doi.org/https://doi.org/10.21564/2414-990x.145.162219.

[2] E.A. Ustyuzhaninova, "Mediation in Public Law of Great Britain," *Administrative Law and Procedure*, n.d., https://doi.org/https://doi.org/10.18572/2071-1166-2021-6-64-67.

can also be considered to describe the agreement reached by the parties before the litigation process. Efforts to institutionalize mediation need to continue not only in the direction of improving the law but also to introduce and implement new mediation programs.[3]

The importance of the concept of mediation in dispute resolution at the Administrative Court is that judicial justice is the key to transforming government functions, a guarantee of social construction, and a guide to enhancing autonomy at the grassroots level. To achieve judicial justice, it is necessary to popularize the idea of the rule of law, improve judicial performance, and innovate within the judiciary.[4]

The Administrative Court is an important institution in the rule of law. However, there are many criticisms related to the process of resolving disputes in Courts, including Administrative Courts, namely, the slow process of litigation, which requires time, energy, and costs. The length of proceedings is one of the most acute problems in Courts in general. The first and foremost reason for this classification is that lengthy proceedings impede fair trial, as they do not respect the constitutional right to hear cases without undue delay. Secondly, lengthy proceedings incur high costs.[5]

Another problem is related to the execution of Administrative Court decisions. Good Court administration must fulfill juridical, philosophical, and sociological foundations so that it is hoped that it will be able to guarantee the creation of justice, legal certainty, and benefit. No matter how good the contents of an Administrative Court decision are, if they cannot be implemented, it will be difficult to provide justice, legal certainty, or benefits, especially for the parties. Failure to implement Administrative Court decisions can reduce the authority of Administrative Courts. If viewed using the legal effectiveness theory approach from Lawrence M. Friedmann, every legal system consists of 3 sub-systems, namely legal substance, legal structure, and legal culture. Based on this theory, the non-implementation of Administrative Court decisions is caused by several conditions, namely (1) Sub-system aspects of legal

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[3] Ana Gurieli, "Institutions of Court Settlement and Judicial /Court-Annexed Mediation as Part of the Unified System of Justice," *Law and World*, 2020, https://doi.org/10.36475/6.2.2.

[4] Wu Gaoqing, "On the Status and Function of Judicial Justice in Social Governance Innovation," *Social Sciences in China* 39, no. 3 (2018): 130–48, https://doi.org/https://doi.org/10.1080/02529203.2018.1483108.

[5] Agnieszka Orfin, "Efficiency of Criminal Proceedings and Their Cost," *Przegląd Prawniczy Uniwersytetu Im. Adama Mickiewicza*, no. 14 (2022): 297–320, https://doi.org/https://doi.org/10.14746/ppuam.2022.14.14.

substance are the provisions of article 116 of the Administrative Court law, which include floating norms, and several decisions that cannot be executed. (2) In the sub-system aspects of legal structure, there are no officials who are specifically given the authority to enforce the implementation of decisions. (3) Subsequently, in the sub-system aspects of the legal culture, the issue lies in compliance with the government legal apparatus and legal awareness due to the public still feeling doubts about Court officials. Another issue is related to the execution of Administrative Court decisions.[6]

The implementation of the judicial process has systematic problems in the context of implementing the judge's decision. In the case of Administrative Court judges' decisions, the problems are the application of execution through revocation of administrative decisions, execution through forced money, administrative sanctions, and delivering decisions announced on social media. The execution of administrative judge decisions is currently still experiencing various problems because efforts to implement decisions are left to administrative officials.[7]

In carrying out Administrative Court executions, it is not possible to use coercive measures using security forces, as is the case in Criminal Courts and Civil Courts. However, the specialty in implementing Administrative Court decisions is that it allows for intervention by the President as head of government, who is responsible for training government officials and is responsible for ensuring that every government apparatus can comply with all applicable laws and regulations, including obeying Court decisions in accordance with the principles of the rule of law. Presidential intervention is necessary because those in dispute are individuals or civil legal entities with administrative bodies or officials, and those who can be sued in Administrative Courts are administrative bodies or officials who can issue state administrative decisions.[8]

The problem of executing Administrative Court decisions has existed since the establishment of this Court. To overcome these problems, it is necessary to strengthen the institution of execution of Administrative Court decisions.

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[6] Dikdik Somantri, "Challenges In Execution Of Court Decision To Strengthen The Administrative Court Charisma," *Jurnal Hukum Peratun* 4, no. 2 (2021): 123–40, https://doi.org/https://doi.org/10.25216/peratun.422021.123-140.

[7] Putra, F. A. S. (2021). Problem Eksekutorial Putusan Hakim Pengadilan Tata Usaha Negara. Justisi, 7(1), 66–75. https://doi.org/10.33506/js.v7i1.1201

[8] Nur Indra Socawibawa & Arif Wibowo, *Efektifitas Eksekusi Peradilan Tata Usaha Negara Di Indonesia: Peradilan, Tata Usaha Negara, Eksekusi Putusan, Efektifitas*, 2 J. PENELIT. MULTIDISIPLIN 45 (2023).

Strengthening was carried out with the first amendment to the Administrative Court law through Law Number 9 of 2004, which was equipped with a forced institution in the form of a forced money penalty (*dwangsom*) for defendants who did not comply with Administrative Court decisions.[9]

The execution of Administrative Court decisions is automatic, hierarchical, and forced. The role or function of the Administrative Court in the execution of decisions is the supervision carried out by the Chairman of the Administrative Court on the implementation of legally binding decisions. Subsequently, the problems in the execution of decisions with permanent legal force, among others, are problems related to the timing of the implementation of the decision, problems related to administrative officials who do not implement the decision, and problems related to the application of sanctions for announcements to the mass media.[10] Problems related to dispute resolution procedures in Administrative Courts and Courts are the lack of effective and efficient Courts and the problem of executing Administrative Court decisions. This has prompted the need for Court-connected mediation in all Court institutions, including Administrative Courts.

Legislative trends in Indonesia show that mediation is increasingly used in various kinds of dispute resolution in the realm of public law, for example, Law Number 14 of 2008 on Public Information Disclosure. Courts have absolute authority to resolve public information disputes if they have been decided first through non-litigation adjudication by the Information Commission.[11] Settlement of waqf disputes with mediation model according to Law Number 41 of 2004 concerning Waqf. The Religious Court, as one of the executors of judicial power, has practiced mediation in the case settlement process. Theoretically, dispute resolution through mediation in Religious Courts has

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[9] Edi Pranoto and M Riyanto, "Politik Hukum Eksekusi Putusan Pengadilan Tata Usaha Negara," 2022.

[10] Lita Lianti, Fiorentina Elfrida Shanty, and Windha Puji Astuti, "Peran PTUN Dalam Eksekusi Putusan Yang Berkekuatan Hukum Tetap Sebagai Langkah Efektif Penyelesaian Sengketa Tun: Universitas Negeri Semarang," *YUSTISI* 10, no. 2 (2023): 76–86, https://doi.org/https://doi.org/10.32832/yustisi.v10i2.14325.

[11] Afif Juniar and Anna Erliyana, "Perbandingan Penyelesaian Sengketa Informasi Publik Di Peradilan Tata Usaha Negara Indonesia Dengan Korea Selatan," *Journal of Law and Policy Transformation* 6, no. 1 (2021): 1–19, https://doi.org/http://dx.doi.org/10.37253/jlpt.v6i1.4382.

several advantages, including cases being resolved quickly and at a low cost and reducing congestion and accumulation of cases in Court.[12]

Settlement through mediation is also contained in Law Number 25 of 2009 concerning Public Services. The process of resolving public service settlements is carried out in several ways, namely the process of resolving public service settlements carried out within and by the public service provider itself, mediation, adjudication, and the process of resolving public service settlements by the Administrative Court if the services provided cause losses in the administrative sector.[13] In addition, there is also Law Number 37 of 2008 concerning the Ombudsman. The Ombudsman is obliged to conduct mediation to resolve complaints at the request of the parties. The Ombudsman has several ways of resolving disputes, namely mediation/conciliation, adjudication, and recommendations. Mediation is the resolution of public service disputes through assistance, either assistance from the Ombudsman himself or through a mediator formed by the Ombudsman. Resolving maladministration disputes through mediation is one of the methods used by the Ombudsman, which is carried out based on an agreement between the Reporting Party and the Reported Party. Mediation is the resolution method chosen by the Ombudsman in order to resolve maladministration disputes, with the aim of finding and providing the best solution. In seeking and providing solutions, there is no determination of the winning party and the losing party. Providing this solution is more of a win-win solution. The Ombudsman chose this method by involving a third party in the hope that this settlement could be mediated by the Ombudsman, who acts as a neutral party.

The Development of Mediation in Dispute Resolution

Indonesia is a state of law based on Pancasila. In philosophical studies, dispute resolution through the peace process can be referred to as the fourth principle of Pancasila, namely, democracy led by wisdom in deliberation and

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[12] Syufaat Syufaat, "Penerapan Prosedur Mediasi Dalam Penyelesaian Sengketa Wakaf Di Pengadilan Agama," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2018, 21–36, https://doi.org/https://doi.org/10.24090/volksgeist.v1i1.1678.

[13] Zsa Zsa Bangun Pratama, "Kewenangan Ajudikasi Oleh Ombudsman Republik Indonesia Dalam Proses Penyelesaian Sengketa Pelayanan Publik," *JOURNAL EQUITABLE* 5, no. 1 (2020): 89–107, https://doi.org/https://doi.org/10.37859/jeq.v5i1.2467.

representation. This principle implies that deliberation is a philosophy in the life of the nation and state, including in resolving problems or disputes. Hence, solving disputes through deliberation, and treating the Court as the last medium to resolve disputes is the identity of the Indonesian nation.[14]

Dispute resolution through a peace process based on philosophical studies refers to the fourth principle of Pancasila, namely democracy led by wisdom in representative deliberations. This principle implies that deliberation is a philosophy in national and state life, including in resolving problems or disputes, and one of which is by treating Courts as a last resort in resolving disputes. Sociological settlement of problems or disputes through peace has also become the culture of the Indonesian people or nation. Based on local wisdom in customary law in Indonesia, which is based on cosmic, magical, and religious thoughts, the institution of mediation has long been recognized. In juridical studies, mediation is more prominent in civil disputes. Legal developments show that public law has also begun to adopt mediation institutions. In criminal law, the term penal mediation is known, and it has developed as a criticism of the excessive formalization and procedural orientation of criminal law enforcement. The concept of restorative justice is based on the values of customary law and deliberative institutions in villages through village leaders, religious figures, or community leaders who are respected and have integrity and honesty.

State power consists of the executive, legislative, and judiciary, which have separate and distinct authorities. The judicial system in Indonesia consists of the Supreme Court and the Constitutional Court, with four judicial circles under the Supreme Court consisting of General Courts, Religious Courts, Military Courts, and Administrative Courts. Administrative justice, philosophically, protects the rights of individuals and society in order to achieve harmony and balance between the two rights. The aim is to harmonize and maintain a state of balance between the individual and the government. Courts are established to enforce law and justice for the community against government actions in the field of public law resulting from maladministration and violations of administrative law.[15]

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[14] Indriati Amarini, "Penyelesaian Sengketa Yang Efektif Dan Efisien Melalui Optimalisasi Mediasi Di Pengadilan," *Jurnal Kosmik Hukum* 16, no. 2 (2016): 87–88, https://doi.org/http://dx.doi.org/10.30595/kosmikhukum.v16i2.1954.

[15] Aju Putrijanti, "The Competence of the Administrative Court and Administrative Justice," *Fiat Justisia: Jurnal Ilmu Hukum* 14, no. 2 (2020): 97–112, https://doi.org/https://doi.org/10.25041/fiatjustisia.v14no2.1890.

Mediation is a global reality and is one of the most important recognized steps in the conflict resolution process. While the development of mandatory Court-based mediation schemes around the world has been a trend over the past few decades, a heated debate continues to emerge as to whether parties can be compelled to mediate disputes.[16]

As the Court is influenced by the concept of harmony as a top priority in Chinese culture, it always encourages parties to settle disputes through Court-connected mediation. To prevent the other party from reneging after signing a settlement or mediation agreement, the parties need to obtain an effective legal document from the Court so that they can apply to the Court for enforcement if necessary. In the settlement and mediation process, concessions made by the parties that are not favorable to themselves cannot be considered as self-acknowledgment of the parties. However, the parties need to take certain steps to prove that such concessions were indeed made in the settlement and mediation process. In general, the information involved in settlement and mediation is confidential.[17]

In the Indonesian judicial system, mediation is one of the options that can be integrated into Court proceedings. Mediation is the settlement of cases through a negotiation process to obtain agreement or peace between the parties with the assistance of a mediator who is integrated into the judicial procedural system. The provision of mediation under positive law has been regulated in Article 130 Het Herziene Indonesisch Reglement, the Civil Code, Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, and Supreme Court Regulation Number 1 of 2016 on Mediation Procedures in Court. The amendment of these provisions is to reduce the accumulation of cases in the Courts of first instance and strengthen peace efforts.[18]

The procedure for resolving disputes through mediation in Court consists of several stages that must be passed by the parties to the dispute. (1) The pre-mediation stage is where the judge obliges the parties to pursue mediation. The judge must explain the mediation procedure to the parties, and the parties must

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[16] Daniel Kaufman Schaffer, "An Examination of Mandatory Court-Based Mediation," *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management* 84, no. 3 (2018).

[17] Chenyang Zhang, "Settlement and Mediation," in *Win in Chinese Courts: Practice Guide to Civil Litigation in China* (Springer, 2023), 163–66, https://doi.org/https://doi.org/10.1007/978-981-99-3342-6_11.

[18] Sri Puspitaningrum, "Mediasi Sebagai Upaya Penyelesaian Sengketa Perdata Di Pengadilan," *Jurnal Spektrum Hukum* 15, no. 2 (2018): 275–99, https://doi.org/10.35973/sh.v15i2.1121.

choose a mediator from a list of available mediators. The judge postpones the trial process to provide an opportunity for the parties to conduct a mediation process for a maximum of 30 days. (2) The mediation stage is that within a maximum of 5 days after the appointment of the mediator, the parties must submit the case resume to the mediator. The mediation process lasts for a maximum of 30 days, and the mediator must arrange a meeting schedule with the parties. The mediator shall declare the mediation a failure if one of the parties or its attorney does not attend the mediation meeting twice in a row. If the mediation results in a peace agreement, then the agreement must be formulated in writing and signed by the parties and the mediator. (3) The final stage is that the parties can submit the agreement to the judge to be confirmed in the form of a peace deed.[19]

Court-connected mediation is becoming an established feature of the Court system in many countries. Conflict resolution through mediation is based on very different philosophical and theoretical foundations to conflict resolution through litigation, with self-determination by the parties being an important feature. Self-determination in mediation reflects the idea that the parties own their conflict and can influence the conflict resolution process and determine its outcome. Self-determination in mediation is both a right of the parties to participate actively and an obligation to do so. The core idea of self-determination in Court-connected mediation is to see the parties as the main actors. They make decisions about how to proceed, in contrast to litigation, where lawyers act on behalf of the parties, and the process is determined by procedural rules.[20]

Dispute resolution is expected not only for the parties who win or lose but efforts are made to reach an agreement between the parties to the dispute. In mediation, a consensus is expected to be reached that will benefit the parties.[21] Court mediation is an effective method of settling disputes before trial. Mediation procedures as an effective pre-trial dispute resolution method are relevant for almost all types of legal relationships. However, because there is no

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[19] Majedi Hendi Siswara and Zainal Asikin, "Dispute Resolution Through Mediation in the Court (Court Annexed Mediation) After the Enactment of Supreme Court Regulation No. 1 of 2016," *International Journal of Scientific Research and Management (IJSRM)* 7, no. 06 (2019): 92–97, https://doi.org/https://doi.org/10.18535/ijsrm/v7i6.lla01.

[20] Lin Adrian and Solfrid Mykland, "Unwrapping Court-Connected Mediation Agreements," *Nordic Mediation Research* 8 (2018): 3–102, https://doi.org/https://doi.org/10.1007/978-3-319-73019-6_6.

[21] I. Kulish T. A. Kobzeva, "Mediation Procedure in Ukrainian Realities," *Legal Horizons*, 2020, https://doi.org/10.21272/legalhorizons.2020.i25.p34.

law regulating mediation, the implementation of mediation is not maximized. Therefore, it is necessary to regulate mediation to provide a mechanism for the implementation of human rights protection and basic human rights.[22]

The stages of the mediation procedure include opening the mediation procedure, carrying out the mediation procedure, and making a decision as a result of the mediation.[23] In general, Court mediation practitioners have more trust in mandatory mediation programs, view voluntary programs as more efficient, and consider both types of programs to be fairly similar in terms of fairness. The success of these programs relies on factors such as the effectiveness of the litigation system, the competence of mediators, the knowledge of participants, and the support of culture and institutions.[24]

The legal impact of mediation results differs depending on whether it is conducted in Court or outside of Court. In Court-mediated agreements are legally binding decisions, whereas agreements arising from non-Court mediation are only considered regular contracts.[25]

Dispute Resolution through Mediation in Administrative Court

The Indonesian state is a legal state that adheres to the concept of a welfare state, as stated in the fourth paragraph of the Preamble of the 1945 Constitution and in Article 1 paragraph (3) of the 1945 Constitution. The implication is that the state is given broad authority to intervene in all fields of community life in order to realize public welfare. The intervention is contained in statutory provisions, both in the form of laws and other implementing regulations implemented by the state administration as state equipment that organizes the task of serving the community. In the rule of law, every government action in carrying out government duties or in order to realize state goals must have a legal basis or basis of authority. In administrative law, it is known as the

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[22] A. Sobakar and R. Opatskyi, "Mediation as a Form of Pre-Trial Resolution of Disputes Regarding Forced Alienation of Property for Public Needs or for Reasons of Public Necessity," *Analytical and Comparative Jurisprudence*, 2023, 396–400, https://doi.org/10.24144/2788-6018.2023.01.67.

[23] Sobakar and Opatskyi.

[24] Shahla F Ali, "Practitioners' Perception of Court-Connected Mediated in Five Regions: An Empirical Study," *Vand. J. Transnat'l L.* 51 (2018): 997.

[25] Dedy Mulyana, "Kekuatan Hukum Hasil Mediasi Di Dalam Pengadilan Dan Di Luar Pengadilan Menurut Hukum Positif," *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 177–98, https://doi.org/https://doi.org/http://dx.doi.org/10.25072/jwy.v3i2.224.

principle of legality, namely that every government activity must be based on applicable laws and regulations.[26]

Administrative law is connected to power and the actions of those in authority, leading to the development of state administrative law. It is born out of the need to regulate and supervise the use of government power in a legal framework, as the state operates as an entity of power. Administrative law is essential in ensuring that tasks related to governance and society are carried out in accordance with the law.[27]

The birth of Administrative Courts in Indonesia is a concrete manifestation of the protection of the rights of every person from decisions issued by state officials. Indonesia established an Administrative Court and its procedural law through Law Number 5 of 1986 concerning State Administrative Courts, as amended for the first time by Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts, then amended for the second time by Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, which became its judicial environment under the Supreme Court of the Republic of Indonesia as one of the leaders of the holders of judicial power together with the Constitutional Court of the Republic of Indonesia.[28]

An Administrative Court has the authority to examine, adjudicate, and decide on administrative disputes. The Administrative Court is responsible for reviewing and settling disputes that arise between citizens and government officials, particularly related to administrative decisions and employment matters. Its main purpose is to serve as a platform for resolving conflicts between the government and citizens in matters pertaining to public law.[29]

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[26] Desy Wulandari, "Pengujian Keputusan Fiktif Positif Di Pengadilan Tata Usaha Negara," *Lex Renaissance* 5, no. 1 (2020): 32–56, https://doi.org/http://dx.doi.org/10.20885/JLR.vol5.iss1.art3.

[27] Dola Riza, "Keputusan Tata Usaha Negara Menurut Undang-Undang Peradilan Tata Usaha Negara Dan Undang-Undang Administrasi Pemerintahan," *Jurnal Bina Mulia Hukum* 3, no. 1 (2018): 85–102, https://doi.org/10.23920/jbmh.v3n1.7.

[28] Renius Albert Marvin and Anna Erliyana, "Polemik Jangka Waktu Pengajuan Gugatan Ke Pengadilan Tata Usaha Negara," *Jurnal Hukum & Pembangunan* 49, no. 4 (2019): 942–58, https://doi.org/10.21143/jhp.vol49.no4.2350.

[29] Umar Dani, "Memahami Kedudukan Pengadilan Tata Usaha Negara Di Indonesia: Sistem Unity of Jurisdiction Atau Duality of Jurisdiction? Sebuah Studi Tentang Struktur Dan Karakteristiknya / Understanding Administrative Court in Indonesia: Unity of Jurisdiction or Duality," *Jurnal Hukum Dan Peradilan* 7, no. 3 (2018): 405–24, https://doi.org/10.25216/jhp.7.3.2018.405-424.

According to the *Trias Politica* theory, the executive branch is governed by the legislature and the judiciary. This is because the individuals responsible for executing state administration functions are overseen by Administrative Courts. The purpose of this judicial oversight is to ensure legal protection for the public, administrative officials, and the agencies responsible for enforcing administrative laws. This helps to promote effective and authoritative governance.[30]

Government officials have extensive power in managing the operations of the government, but this power is often abused, resulting in societal losses and unfairness. As a result, there is a need for other institutions to oversee and regulate the government. An Administrative Court has absolute competence to examine and resolve administrative disputes. The broader absolute competence of Administrative Courts can provide easier access to justice where the public can file a lawsuit against the government's factual actions in the field of public law.[31] The existence of this judicial institution ensures that citizens are not harmed by arbitrary administrative decisions. This Court must be independent and free from any interference so that the resulting decision can be as fair as possible.[32]

Expansion of the absolute competence of Administrative Courts encompass the authority to test factual actions, test for abuse of authority, test administrative remedies, decide positive fictitious decisions, and test discretion. The form of expansion of the absolute competence of administrative justice according to Law Number 30 of 2014 concerning Government Administration includes expansion of the meaning of government decisions and administration, including executive, legislative, and judicial government decisions as well as factual actions; testing the results of administrative efforts; applying for positive fictitious decision; testing for elements of abuse of authority; and the authority

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[30] Ruslin, "An Existence of State Administration Court in Establishing Good Governance," *Aloha International Journal of Multidisciplinary Advancement (AIJMU)* 1, no. 1 (2019): 1–7, https://doi.org/https://doi.org/10.33846/aijmu10101.

[31] Aju Putrijanti, "Jurisprudence of State Administrative Courts in The Development of State Administrative Law," *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 161–74, https://doi.org/10.30641/dejure.2021.v21.161-174.

[32] N. Sayekti and Isharyanto., "Quo Vadis Object of Civil Court of Justice Disputes After Government Administrative Law : Regional House of People's Representative Decision Concerning Dismissal Recomendation for Regional Chief/Vice Chief Nur," *Aloha International Journal of Multidisciplinary Advancement (AIJMU)* 2, no. 1 (2020): 8–12, https://doi.org/https://doi.org/https://doi.org/10.33846/aijmu20102.

to test discretion.[33] The changes that have occurred after the enactment of the Government Administration Law are due to the new meaning of decisions that are the object of disputes in Administrative Courts and changes in procedural law in Administrative Courts related to the expansion of the competence of Administrative Courts, namely disputes testing elements of abuse of authority and negative fictitious administrative disputes.[34]

Disputes are common, and when they arise, parties often try to resolve them amicably. If the parties are unable to resolve their dispute amicably, they may seek the assistance of a third party, a mediator, who will attempt to create a climate conducive to informal and relatively low-cost dispute resolution. Compared to other forms of alternative dispute resolution, mediation allows for more flexible solutions and settlements. If a settlement is reached and adhered to, mediation can help maintain the parties' relationship. The use of mediation has increased considerably over the last 40 years.[35]

The practice of resolving conflicts between authorities and private individuals in pre-trial proceedings tends to demonstrate the authorities' unwillingness to compromise and the legal nature of their decisions. Therefore, it is necessary to propose improved legislation aimed at mediated settlement as a means of resolving public law disputes.[36] The importance of mediation is integrated into the French administrative justice system. Administrative mediation appears to have finally begun to take root in France with the reform of 2016. The pilot project in Grenoble showed that mediation can be successful in an administrative context and can fill gaps in French administrative justice. However, the French experience also shows that to develop administrative mediation, it needs to be supported by its own administrative justice system,

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[33] Ridwan HR, Despan Heryansyah, and Dian Kus Pratiwi, "Perluasan Kompetensi Absolut Pengadilan Tata Usaha Negara Dalam Undang-Undang Administrasi Pemerintahan," *Jurnal Hukum IUS QUIA IUSTUM* 25, no. 2 (2018): 339–58, https://doi.org/https://doi.org/10.20885/iustum.vol25.iss2.art7.

[34] Bambang Heriyanto, "Kompetensi Absolut Peradilan Tata Usaha Negara Berdasarkan Paradigma UU No. 30 Tahun 2014 Tentang Administrasi Pemerintahan," *PALAR (Pakuan Law Review)* 4, no. 1 (2018), https://doi.org/https://doi.org/https://doi.org/10.33751/palar.v4i1.784.

[35] Niek Peters, "The Enforcement of Mediation Agreements and Settlement Agreements Resulting from Mediation," *Corporate Mediation Journal*, no. 1–2 (2019): 13–19, https://doi.org/https://doi.org/10.5553/CMJ/254246022019003102005.

[36] V. Y. Lunina, O. S., & Poplavskyi, "Mediation As a Method of Pre-Trial Settlement of Public Legal Disputer in The Field of State Registration.," *Bulletin of Alfred Nobel University Series "Law,"* 2, no. 5 (2022): 56–61, https://doi.org/https://doi.org/https://doi.org/10.32342/2709-6408-2022-2-5-6.

thus leading to a pluralistic administrative justice system in France. If this (sub)system of informal administrative justice has national roots, then it plays an important role in rethinking the model of informal administrative justice more broadly.[37]

The sphere of administrative disputes is the most difficult for the implementation of mediation procedures. This is determined by the peculiarities of such disputes and also by the legal nature of the subject of administrative legal relations. Therefore, some scientists call it partial incompetence of such disputes since one of the parties in the case is always an organ of public authority. Nowadays, more and more proceedings in administrative bodies and Administrative Courts can be observed, but the role of mediation in their resolution is still neglected. The problem with the mediation of public disputes is the lack of trust of public administration bodies, Courts, and the general public in this form of conflict resolution. Therefore, it is necessary to introduce legislative amendments, and increase understanding and socialization.[38]

The low usage of mediation in resolving legal conflicts, including administrative disputes, is because people are not aware of the benefits it offers compared to traditional Court methods. The main issues are the lack of proper regulations for mediation, a shortage of skilled mediators, and the resistance from lawyers and participants in the current administrative process.[39]

Settlement through mediation is important to develop due to problems with the implementation of Court decisions. Currently, the mechanism for implementing Court decisions is through administrative and civil coercion in the form of the imposition of forced money. In practice, this mechanism is less effective because there are still officials who do not want to comply with implementing administrative Court decisions. The impact of not implementing

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[37] Sophie Boyron, "Mediation in French Administrative Courts: What Lessons for Administrative Justice?," *N. Ir. Legal Q.* 71 (2020): 457, https://doi.org/https://doi.org/https://doi.org/10.53386/nilq.v71i3.541.

[38] Elżbieta Pawłowska, Paweł Witkowski, and Paulina Trybus, "Mediation as an Innovative Dispute Resolution Tool Based on the Example of Public Organizations," *Zeszyty Naukowe. Organizacja i Zarządzanie/Politechnika Śląska*, no. 150 (2021): 169–81, https://doi.org/https://doi.org/10.29119/1641-3466.2021.150.13.

[39] I. Verba, "Mediation in Administrative Proceedings: Problems of Theory and Practice," *Naukovyy Visnyk Dnipropetrovs'kogo Derzhavnogo Universytetu Vnutrishnikh Sprav*, 2021, https://doi.org/https://doi.org/10.31733/2078-3566-2021-3-186-190.

Court decisions is the neglect of citizens' constitutional rights to justice that been decided by the Administrative Court.[40]

In administrative disputes, one of the parties is always the state or a government body, both of which act within the limits of their functions and powers. Regardless, the practice of Administrative Courts in Lithuania shows that certain administrative dispute resolution is possible. In 2013, the Law on Administrative Procedure was amended with rules allowing parties to administrative disputes to settle them, with some exceptions. Following that step, in 2019, Court-connected mediation was introduced in Lithuanian Administrative Courts under the initiative of Administrative Courts. The model of Court-connected mediation in administrative disputes is similar to that used in Civil Courts. In 2021, only seven mediations were conducted in Administrative Courts. Very few disputes have been referred to Court-connected mediation since the inception of the initiative, which proves that the development path of the initiative is slow.[41]

In many cases already have permanent legal force because of the long process in Court, the decision is difficult to implement. For example, in employment disputes, when the decision is about to be implemented, it turns out that the employee concerned has reached retirement age. This justice seems to justify the terminology justice delayed is justice denied, which reflects the slowness of the Courts to provide justice to the community and ultimately results in substantive justice becoming meaningless again, illustrating how the influence of Court services on the real meaning of justice.

Criticism of the Courts also relates to the integrity of Court officials. The Courts are still considered a place to buy and sell victories, as reflected by the arrests of Court officials. They are easily swayed by temptations from litigants. Another criticism of the litigation process relates to Court decisions where one party wins and the other loses. This is different when using mediation because there is no loser. Another criticism is that the implementation of the litigation process involves execution as a result of the victory achieved by the winner in the dispute. Many decision-execution processes are problematic.

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[40] Budi Suhariyanto, "Urgensi Kriminalisasi Contempt of Court Untuk Efektivitas Pelaksanaan Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 16, no. 1 (2019): 193–211, https://doi.org/:https://doi.org/10.31078/jk16110.

[41] Agnė Tvaronavičienė et al., "Mediation in the Baltic States: Developments and Challenges of Implementation," *Access to Justice in Eastern Europe* 5, no. 4 (2022): 1–23, https://doi.org/https://doi.org/10.33327/AJEE-18-5.4-a000427.

TABLE 1. Case Execution Data in Administrative Courts with Problems

Case Number	Parties	Processing time	The reason has not been implemented
152/G.TUN/2001/PTUN Jakarta jo 70/B/2002/PT.TUN.JKT jo. 183K/TUN/2003	Plaintiff: Didid Tjindarbumi Defendant: Chancellor of the University of Indonesia	7 years	The Plaintiff has reached retirement age
149/G/2006/PTUN-JKT jo. 127/B/2007/PTTUN-JKT jo. 131K/TUN/2008 jo. 96/PK/TUN/2010	Plaintiff: Yasman Hadi Defendant: Minister of State-Owned Enterprises	5 years	There has been no agreement between the Plaintiff and the Defendant regarding rehabilitation
37/G/2009/PT TUN-JKT Jo. 237/B/2009/PTUN.JKT jo. 151K/TUN/2010 jo. 149 pk/tun/2011	Plaintiff: PT Corbec Com Defendant: Minister of Communication and Information	4 years	The decision cannot be implemented
143/G.TUN/2003/PTUN-JKT jo. 91/B/2004/PTTUN JKT jo 421K/TUN/2004 jo. 07 PK/TUN/2006	Plaintiff: Hary Sunaryo Defendant: Head of the National Land Agency	9 years	The decision contradicts another decision number 194/G/TUN/2002/PTUN-JKT

In cases where the object of the dispute is a decision related to the election of regional heads, often after the dispute has permanent legal force, the Court decision cannot be implemented. This is because the stages of the regional head election process have been regulated in the Rules for General Election of Regional Heads made by the General Election Commission. Even though the general election commission's decision letter was challenged in the Administrative Court, the regional head election process continues. When the case has permanent legal force, and the General Election Commission's decision letter is declared null and void, the elected regional head has been appointed. The Plaintiff's victory in the Administrative Court was in vain because it is not easy to annul a regional head who has already been elected and has been issued

a Presidential Decree or Minister of Home Affairs and has been inaugurated. This also happens in personnel cases because the process in the Administrative Court takes a long time, and the decision cannot be implemented because the employee involved is entering retirement age. This situation reflects the slowness of the Courts in providing justice to the community and results in substantive justice becoming meaningless.

The aforementioned criticisms prompted the need for mediation to be institutionalized in Administrative Court procedural law. The idea of mediation in Administrative Courts is in line with the policies and steps developed by the Supreme Court. The integration of mediation in dispute resolution in Administrative Courts is also in line with the development of settlements in other countries.

Mediation Practices in Dispute Resolution in Administrative Courts in Indonesia

Justice is demonstrated through shared perspectives, and it is implemented and achieved in various ways. Justice is categorized based on the differences between the parties involved and the role plays. It is formed by incorporating societal needs into normative principles, which are then included in the system of regulations that govern what is acceptable and what is not.[42]

Mediation is now an integral part of most justice systems, with lawyers, judges, and other Court officials participating in mediation in various roles, including as mediators. Specially designed rules have also been developed to ensure that mediation achieves the goal of improving access to justice in the Court system, including elements of party self-determination and the extent to which they are preserved in Court-connected mediation.[43]

Mediation or reconciliation is not recognized in the procedural law of the Administrative Court in Indonesia. This is because the substance of the dispute being examined is not a civil dispute, as stated in Article 53 of Law Number 5 of 1986. There is no recognition of peace in administrative settlements because the state Administrative Court does not have jurisdiction to make peace between the parties involved in the case. This is because the substance of the case is not a civil case. Problems arise if both parties are unwilling to continue

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[42] V. Katomina, "Justice As A Social Phenomenon," *Siberian Journal of Anthropology.* 5, no. 2 (2021): 157–64, https://doi.org/https://doi.org/https://doi.org/10.31804/2542-1816-2021-5-2-157-164.

[43] Katomina.

the case through an amicable process. The Supreme Court provided a solution through Circular Letter Number 2 of 1991, which determined that the possibility of peace was only carried out outside the trial. Hence, the Court had no role in the peace effort.[44]

The idea of mediation in the Administrative Court actually parallels the policies and steps that the Supreme Court wants to develop, as stated by the Chief Justice of the Supreme Court in the National Working Meeting of the Supreme Court with the Court of Appeal in Manado on October 29, 2012. In juridical studies, the Supreme Court, through the Supreme Court Regulation on Mediation, encourages mediation in Courts within the general judicial environment and applies to other judicial bodies. Since Administrative Courts are part of the general judicial environment, juridically, the provisions of the Supreme Court Regulation on mediation also apply to Administrative Courts.

Administrative justice procedural law has similarities with civil procedural law. The trial process is in the order of reading the Plaintiff's lawsuit, the Defendant's answer, the Plaintiff's replication, the Defendant's duplicity, the conclusion, and the verdict. Therefore, the integration of mediation in Administrative Courts has a juridical basis. Regarding the non-regulation of mediation institutions in administrative Court procedural law because administrative dispute resolution is in the public domain. Public law aims to implement general regulations. The definition of an administrative dispute is a dispute arising in the field of administration between persons or civil legal entities and administrative bodies or officials at both the central and regional levels as a result of the issuance of administrative decisions.

The Defendant's position is that of an administrative official who is the executor of public affairs based on applicable laws and regulations. Supposedly, the Defendant in an administrative dispute is not representing personal interests but the interests of the general public. It is feared that if there is a peace institution in the form of mediation between the Plaintiff and the Defendant, who is supposed to represent the public interest, will act in a personal capacity, which can result in harming the community. In addition, there is also concern that the mediation process carried out by the plaintiff person or civil legal entity with the Defendant will be able to sacrifice the interests of the community. Unlike disputes that occur in the realm of private law, disputes only concern the interests of the parties to the dispute. However, the demands of practical

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[44] Tri Mulyani, Sukimin, and Wahyu Satria Wana Putra Wijaya, "Konsep Mediasi Dalam Penyelesaian Sengketa Tata Usaha Negara Berbasiskan Nilai Keadilan Pancasila," *Jurnal Ilmiah Galuh Justisi* 10, no. 1 (2022): 133–59, https://doi.org/10.25157/justisi.v10i1.5773.

needs and legislative trends have begun to be regulated in many laws and regulations.

As described earlier, mediation is also prospectively integrated into the administrative dispute resolution process before the examination of the main dispute begins. The judge is obliged to hold a preparatory examination to improve and complete the Plaintiff's claim. The preparatory examination applies to ordinary disputes, not disputes examined under the fast, short, and special events. In a preparatory examination that is closed to the public, the judge is obliged to advise the Plaintiff to improve the claim and complete it with the necessary data within 30 days of the preparatory examination.

In the preparatory hearing, the judge asks the Plaintiff, to attach and present the challenged administrative decision and preliminary data concerning the subject matter of the dispute together with the lawsuit. The preparatory hearing is a good moment to conduct mediation. The informal nature of mediation is very suitable when mediation is conducted during the preparatory examination because the preparatory examination is conducted in the deliberation room in a session closed to the public or can be conducted in the judge's office without wearing a toga.

Challenges to government decisions or actions are always related to public services because the government is the executor of public affairs. Therefore, mediation in dispute resolution must accommodate the public interest. The parameter to determine that dispute resolution through peace in the mediation process is accommodating the public interest is the legislation that materially regulates the disputed issue. The parameters are laws and regulations, so the role of the mediator in resolving administrative disputes is limited to directing the parties to make peace in the mediation process to still refer to the laws and regulations. Peace in the mediation process must not conflict with public law.

The opportunity for mediation is very open during the preparatory examination. This is because, at this stage, the judge gets information related to the lawsuit filed. The problem that became the object of the lawsuit was triggered by a problem triggered by miscommunication between the Plaintiff and the Defendant in terms of public services. By providing legal options to the parties that the disputed issues can actually be resolved without having to go through a trial process that drains a lot of energy and time, the parties will get a new understanding of their problems that can be resolved without having to continue the trial process.

Mediation in the settlement of civil disputes in Court is not optimal because it is often only carried out to fulfill formalities, so there are still many cases that fail in mediation. However, improvement efforts have been made by

the Supreme Court through regulations and infrastructure in the Court. The causes of non-optimal mediation are due to limited mediator personnel, facilities, and lack of support from the parties. Some efforts can be carried out so that mediation can run effectively, namely by determining the criteria for mediators who are professional and have a high willingness to invite the parties to reconcile.[45]

The use of mediation as an alternative to the Court system for resolving disputes is seen as effective, but some areas need improvement. There are legislative guidelines in place, but there are still gaps that need to be addressed. It is important to create a strategy for the development of mediation institutions, educate the public and legal professionals about the process, and address issues with mediator training and participation.[46]

Litigation and non-litigation are actually two different processes used to resolve disputes. Supreme Court Regulation Number 1 of 2016 integrates the process of resolving a dispute outside of Court with dispute resolution in Court. In the event of an agreement in the mediation process, the agreement is given legal force through a Court decision.[47] The use of mediation as an alternative dispute resolution mechanism in administrative law proceedings has prospects, given its growing popularity in civil disputes and methodology for resolving disputes amicably, although this requires judicial and legislative readiness.[48]

Based on Supreme Court Regulation Number 1 Year 2016 on Mediation Procedures in Courts, it is expected to increase access to justice as an alternative dispute resolution that is mutually beneficial to both parties through mediation in Court. In order to improve the effectiveness and success of mediation, the Supreme Court issued a decree of the Chief Justice of the Supreme Court Number 108/KMA/SK/VI/2017 concerning Mediation Governance in Courts and Decree of the Chief Justice of the Supreme Court Number

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[45] Dian Maris Rahmah, "Optimalisasi Penyelesaian Sengketa Melalui Mediasi Di Pengadiln," *Jurnal Bina Mulia Hukum* 4, no. 42 (2019): 1–16, https://doi.org/10.23920/jbmh.v4n1.1.

[46] O. A. Derbisheva, "The Problems of Mediation Procedure in Civil Proceedings," *Legal Concept* 20, no. 1 (2021): 118–218, https://doi.org/https://doi.org/10.15688/lc.jvolsu.2021.1.18.

[47] Nugraha Pranadita, "Perubahan Fungsi Mediasi Dalam Praktek Di Pengadilan Negeri Dan Pengadilan Agama Kaitannya Dengan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan," *Res Nullius Law Journal* 1, no. 2 (2019): 98–104, https://doi.org/https://doi.org/https://doi.org/10.34010/rnlj.v1i2.2619.

[48] E. Tsiftsi, "Mediation in Administrative Disputes," *Law and World*, 2021, https://doi.org/https://doi.org/https://doi.org/10.36475/7.3.9.

117/KMA/SK/VI/2018 concerning Procedures for Granting and Extending Accreditation of Mediator Certification Organizing Institutions for Non-Judge Mediators. It is hoped that with the issuance of policies related to mediation, the success rate of mediation can increase from year to year.

The opportunity for mediation is very open during the preparatory examination. This is because, at this stage, the judge gets information related to the lawsuit filed. The problem that became the object of the lawsuit was triggered by a problem triggered by miscommunication between the Plaintiff and the Defendant in terms of public services. By providing legal options to the parties that the disputed issues can actually be resolved without having to go through a trial process that drains a lot of energy and time, the parties will get a new understanding of their problems that can be resolved without having to continue the trial process.

In accordance with the special characteristics of the competence of Administrative Courts that are in the realm of public law, the role of mediators is specificity in carrying out the mediation process. Lawsuits against government actions are always related to public services because the government is the executor of public affairs. Mediators, in resolving administrative disputes, must be able to accommodate public interests regulated by legislation. Mediation is a necessity that must be applied by the judiciary in order to resolve disputes peacefully, implement the principles of fast, low cost, and simple justice, and reduce the accumulation of cases that occur. Judges who are appointed as mediators must change their mindset that the implementation of mediation is not just about implementing a regulation, but furthermore, it is so that the settlement of disputes between litigants can be carried out amicably based on an agreement.[49]

In cases where the object of the dispute is a decision related to the election of regional heads, often after the dispute has permanent legal force, the Court decision cannot be implemented. This is because the stages of the regional head election process have been regulated in the Rules for General Election of Regional Heads made by the General Election Commission. Even though the general election commission's decision letter was challenged in the administrative Court, the regional head election process continues. When the case has permanent legal force and the General Election Commission's decision letter is declared null and void and the elected regional head has been appointed.

[49] Taufik Siregar and Zaini Munawir, "Mediasi Dalam Tiga Sistem Hukum Dan Perannya Di Dalam Terwujudnya Keberhasilan Tujuan Hukum Di Indonesia," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 3, no. 1 (2020): 7–16, https://doi.org/10.34007/jehss.v3i1.161.

The Plaintiff's victory in the Administrative Court was in vain because it is not easy to annul a regional head who has already been elected and has been issued a Presidential Decree or Minister of Home Affairs and has been inaugurated. This also happens in personnel cases because the process in the Administrative Court takes a long time, and the decision cannot be implemented because the employee involved is entering retirement age. This situation reflects the slowness of the Courts in providing justice to the community and results in substantive justice becoming meaningless. Mediation is one option that can be integrated into the Court process. Mediation in Court is a settlement through a negotiation process to reach an agreement or peace between the parties assisted by mediation that is integrated into the judicial procedural system. An interesting development in resolving settlements through mediation is the change in paradigm where mediation was originally used to settle settlements outside of Court, but in the development of mediation, it is also used to settle settlements in Court. The integration of mediation in administrative law is important in order to realize an effective and efficient Court. Steps to improve mediation in the Courts have been taken by the Supreme Court, namely the provision of infrastructure and human resources. However, the implementation of mediation in the Court has not been maximized. This can be seen from the table on the settlement of mediation cases below:

TABLE 2. Case Settlement through Mediation in 2020

No	Court type	Number of mediation cases	Mediation success status		
			Successfully implemented	Not successfully implemented	Unable to be implemented
1	General	36.366	1.125	14.955	20.286
2	Religion	59.257	4.052	53.093	2.112
Total		95.623	5.177	68.048	22.398
		Percentage (%)	5.41	71.16	23.42

TABLE 3. Case Settlement through Mediation in 2021

No	Court type	Number of mediation cases	Mediation success status			
			Successfully implemented	Not successfully implemented	Unable to be implemented	In process
1	General	39.888	1.187	16.251	21.193	1.257
2	Religion	62.464	8.964	52.596	904	0

No	Court type	Number of mediation cases	Mediation success status			
			Successfully implemented	Not successfully implemented	Unable to be implemented	In process
Total		102.352	10.151	68.847	22.097	1.257
Percentage (%)			9,92	67,26	21,59	1,23

Mediation efforts were unsuccessful because the litigants did not have good faith in resolving their problems, so they preferred to resolve them through the Courts. In addition, several mediators did not have certificates of expertise, so they did not reach the target. Efforts that must be made in the future are to increase the role of mediators with adequate expertise.[50]

It seems that mediators must meet certain qualifications in both administrative proceedings and Court administration. Regardless of the legal conditions prevailing in the scope under discussion, which have, in fact, been defined in an optimal way, the success of mediation in administrative proceedings and Court administration can be achieved by promoting this institution and disseminating its ideas and at the same time establishing proper communication channels between the public administration and the public.[51]

TABLE 4. Case Settlement through Mediation in 2022

No	Court Type	Number of mediation cases	Mediation success status			
			Successfully implemented	Not successfully implemented	Unable to be implemented	In process
1	General	40.551	1.362	16.985	20.863	1.341
2	Religion	68.831	19.499	47.705	1.243	384
Total		109.382	20.861	64.690	22.106	1.725
Percentage (%)			19.07	59.07	20.21	1.58

The number of cases mediated in 2022 was 109,382 cases. Of these, 20,861 cases were successfully mediated, while the number of cases that were not successfully mediated was 64,690 cases. The factors that become obstacles

[50] Mahkamah Agung Republik Indonesia, "Laporan Pertanggungjawaban Mahkamah Agung Tahun 2021" (Jakarta, 2021).

[51] Jolanta Itrich-Drabarek et al., "Mediation in the Administrative and Court-Administrative Proceedings," *Studia Iuridica*, no. 89 (2022): 111–24, https://doi.org/10.31338/2544-3135.si.2022-89.6.

in the implementation of mediation that results in unsuccessful mediation are (1) Factors from the litigants who do not have good faith to return to maintaining their household or the dispute in question; (2) The factors of the absence of the litigants in mediation which has a scheduled time limit; and (3) The small number of certified mediators.

As the idea is that mediation in Administrative Courts is conducted during the preparatory examination process, mediation is conducted by the judge appointed to hear the dispute. Judges as mediators must have expertise in mediation. This is because mediation can resolve disputes so that there is no need to continue the trial process.

If all parties are well prepared before the mediation session, the process is more likely to achieve the parties' objectives and reduce the time the Court spends managing and adjudicating the case. Before the mediation session begins, the parties should understand their case and the potential mediation procedure, and they should make some decisions. Without incurring substantial additional costs, the Court can take the initiative to assist the parties, lawyers and mediators in preparing for the mediation session. This will involve the Court reviewing and revising their rules, policies, and publications, which is a routine activity for the Court.[52]

Indonesian society, which is vertically and horizontally different from each other and has a considerable degree of diversity, cannot be expected to share the same view of the messages conveyed by the law. Disputes are essentially a reflection of the character and will of two different people. Public disputes can be resolved in a number of ways. Each strategy uses a paradigm that is unique to the goals, culture, or values of the parties to the dispute. The problem is not only with the substance of the regulation but also with the actors who apply the regulation, such as judges, disputants, and advocates.[53]

The consensus approach in the mediation process means that everything produced in the mediation process must be the result of the agreement or consent of the parties. Mediation can be pursued by parties consisting of two disputing parties or more than two parties (multiparties), which, of course, allows political parties to use this alternative effort. Mediation refers to the role

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[52] John Lande, "How Can Courts–Practically for Free–Help Parties Prepare for Mediation Sessions?," *University of Missouri School of Law Legal Studies Research Paper*, no. 2023–11 (2023).

[53] Indriati Amarini, Marsitiningsih Marsitiningsih, and Ratna Kartikawati, "Mediator Judge In Court: Approach To Local Wisdom In Banyumas Community," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 14, no. 1 (2023): 19–32, https://doi.org/http://dx.doi.org/10.21043/yudisia.v14i1.18066.

of culture as the dominant factor. Based on this view, consensus resolution methods such as negotiation and mediation can be accepted and used by the community because the approach is in accordance with the perspective of community life and even political parties. People or communities, including members of political parties who inherit an inherent cultural tradition that emphasizes the importance of harmony in life or association will certainly be more able to accept and use consensus methods in dispute resolution. Apart from cultural factors, mediation sees the power of the disputing parties as relatively more balanced. Parties are willing to negotiate not because they feel sorry for the other party or because certain cultural or spiritual values bind them, but because they need the cooperation of the other party in order to achieve their goals or realize their interests.[54]

In general, the causal factors or obstacles in the mediation process are that the litigants themselves do not want peace.[55] The internalization of Pancasila values towards the mediator profession can be seen through the attitude of the mediator in accordance with the guidelines stipulated in Supreme Court Regulation Number 1 Year 2016. The values of Pancasila, especially the 4th Precept, which mandates deliberation to reach a consensus, will certainly be achieved through a good mediation process.[56]

Conclusion

The scope of administrative disputes is the most difficult part of the implementation of mediation procedures. However, mediation as an alternative to public dispute resolution has long been applied in some countries. This is due to the peculiarities of administrative disputes and also the legal nature of the subject of administrative legal relations. The practice of mediation in the

[54] Randy Pradityo, "Penyelesaian Perselisihan Internal Partai Politik Secara Mufakat Dan Demokratis/Dispute Resolution of Internal Political Parties in Consensus and Democratic," *Jurnal Hukum Dan Peradilan* 7, no. 3 (2018): 375–86, https://doi.org/http://dx.doi.org/10.25216/jhp.7.3.2018.375-386.

[55] Teguh Anindito, Aris Priyadi, and Arif Awaludin, "Pelaksanaan Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan Negeri Banyumas," *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma* 24, no. 1 (2022): 23–32, https://doi.org/https://doi.org/https://doi.org/10.51921/chk.v24i1.187.

[56] Yohanes Jeriko Giovanni, Rama Adi Saputra Sunadynatha, and Selvin Matthew Chandra, "Internalisasi Nilai-Nilai Pancasila Sebagai Profesi Hukum Mediator Dalam Rangka Membangun Integritas," *Jurnal Kewarganegaraan* 7, no. 1 (2023): 925–28, https://doi.org/https://doi.org/10.31316/jk.v7i1.5055.

settlement of public disputes can be done in two ways, namely settlement outside the Court by revoking the lawsuit as stipulated in Supreme Court Circular Letter Number 2 of 1991, which determines that the possibility of peace is only carried out outside the trial, so that the Court has no role in peace efforts. The use of mediation in administrative dispute resolution in Administrative Courts is possible based on Supreme Court Regulation Number 1 of 2016. The integration of mediation in dispute resolution in public Administrative Courts is a positive step, as it will provide access to justice, help improve the quality of Court decisions and resolve disputes in Court, open dialog, and dispute resolution.

References

Adrian, Lin, and Solfrid Mykland. "Unwrapping Court-Connected Mediation Agreements." *Nordic Mediation Research* 8 (2018): 3–102. https://doi.org/https://doi.org/10.1007/978-3-319-73019-6_6.

Ali, Shahla F. "Practitioners' Perception of Court-Connected Mediated in Five Regions: An Empirical Study." *Vand. J. Transnat'l L.* 51 (2018): 997.

Amarini, Indriati. "Penyelesaian Sengketa Yang Efektif Dan Efisien Melalui Optimalisasi Mediasi Di Pengadilan." *Jurnal Kosmik Hukum* 16, no. 2 (2016): 87–88. https://doi.org/http://dx.doi.org/10.30595/kosmikhukum.v16i2.1954.

Amarini, Indriati, Marsitiningsih Marsitiningsih, and Ratna Kartikawati. "Mediator Judge In Court: Approach To Local Wisdom In Banyumas Community." *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 14, no. 1 (2023): 19–32. https://doi.org/http://dx.doi.org/10.21043/yudisia.v14i1.18066.

Anatoliyvna, Nesterova Iryna, and Shelever Natalya Vasylivna. "Mediation as an Alternative Method of Public Legal Disputes Solving." *Проблеми Законності*, no. 145 (2019): 169–78. https://doi.org/https://doi.org/10.21564/2414-990x.145.162219.

Anindito, Teguh, Aris Priyadi, and Arif Awaludin. "Pelaksanaan Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan Negeri Banyumas." *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma* 24, no. 1 (2022): 23–32. https://doi.org/https://doi.org/https://doi.org/10.51921/chk.v24i1.187.

Boyron, Sophie. "Mediation in French Administrative Courts: What Lessons for Administrative Justice?" *N. Ir. Legal Q.* 71 (2020): 457.

https://doi.org/https://doi.org/https://doi.org/10.53386/nilq.v71i3.541

Dani, Umar. "Memahami Kedudukan Pengadilan Tata Usaha Negara Di Indonesia: Sistem Unity of Jurisdiction Atau Duality of Jurisdiction? Sebuah Studi Tentang Struktur Dan Karakteristiknya / Understanding Administrative Court in Indonesia: Unity of Jurisdiction or Duality." *Jurnal Hukum Dan Peradilan* 7, no. 3 (2018): 405–24. https://doi.org/10.25216/jhp.7.3.2018.405-424.

Derbisheva, O. A. "The Problems of Mediation Procedure in Civil Proceedings." *Legal Concept* 20, no. 1 (2021): 118–218. https://doi.org/https://doi.org/10.15688/lc.jvolsu.2021.1.18.

Gaoqing, Wu. "On the Status and Function of Judicial Justice in Social Governance Innovation." *Social Sciences in China* 39, no. 3 (2018): 130–48. https://doi.org/https://doi.org/10.1080/02529203.2018.1483108.

Giovanni, Yohanes Jeriko, Rama Adi Saputra Sunadynatha, and Selvin Matthew Chandra. "Internalisasi Nilai-Nilai Pancasila Sebagai Profesi Hukum Mediator Dalam Rangka Membangun Integritas." *Jurnal Kewarganegaraan* 7, no. 1 (2023): 925–28. https://doi.org/https://doi.org/10.31316/jk.v7i1.5055.

Gurieli, Ana. "Institutions of Court Settlement and Judicial /Court-Annexed Mediation as Part of the Unified System of Justice." *Law and World*, 2020. https://doi.org/10.36475/6.2.2.

Heriyanto, Bambang. "Kompetensi Absolut Peradilan Tata Usaha Negara Berdasarkan Paradigma UU No. 30 Tahun 2014 Tentang Administrasi Pemerintahan." *PALAR (Pakuan Law Review)* 4, no. 1 (2018). https://doi.org/https://doi.org/https://doi.org/10.33751/palar.v4i1.784.

HR, Ridwan, Despan Heryansyah, and Dian Kus Pratiwi. "Perluasan Kompetensi Absolut Pengadilan Tata Usaha Negara Dalam Undang-Undang Administrasi Pemerintahan." *Jurnal Hukum IUS QUIA IUSTUM* 25, no. 2 (2018): 339–58. https://doi.org/https://doi.org/10.20885/iustum.vol25.iss2.art7.

Indonesia, Mahkamah Agung Republik. "Laporan Pertanggungjawaban Mahkamah Agung Tahun 2021." Jakarta, 2021.

Itrich-Drabarek, Jolanta, Marcin Jurgilewicz, Andrzej Misiuk, and Aleksandra Zając. "Mediation in the Administrative and Court-Administrative Proceedings." *Studia Iuridica*, no. 89 (2022): 111–24. https://doi.org/10.31338/2544-3135.si.2022-89.6.

Juniar, Afif, and Anna Erliyana. "Perbandingan Penyelesaian Sengketa Informasi Publik Di Peradilan Tata Usaha Negara Indonesia Dengan Korea Selatan." *Journal of Law and Policy Transformation* 6, no. 1 (2021):

1–19. https://doi.org/http://dx.doi.org/10.37253/jlpt.v6i1.4382.

Katomina, V. "Justice As A Social Phenomenon." *Siberian Journal of Anthropology.* 5, no. 2 (2021): 157–64. https://doi.org/https://doi.org/https://doi.org/10.31804/2542-1816-2021-5-2-157-164.

Lande, John. "How Can Courts–Practically for Free–Help Parties Prepare for Mediation Sessions?" *University of Missouri School of Law Legal Studies Research Paper*, no. 2023–11 (2023).

Lianti, Lita, Fiorentina Elfrida Shanty, and Windha Puji Astuti. "Peran PTUN Dalam Eksekusi Putusan Yang Berkekuatan Hukum Tetap Sebagai Langkah Efektif Penyelesaian Sengketa Tun: Universitas Negeri Semarang." *YUSTISI* 10, no. 2 (2023): 76–86. https://doi.org/https://doi.org/10.32832/yustisi.v10i2.14325.

Lunina, O. S., & Poplavskyi, V. Y. "Mediation As a Method of Pre-Trial Settlement of Public Legal Disputer in The Field of State Registration." *Bulletin of Alfred Nobel University Series "Law,"* 2, no. 5 (2022): 56–61. https://doi.org/https://doi.org/https://doi.org/10.32342/2709-6408-2022-2-5-6.

Marvin, Renius Albert, and Anna Erliyana. "Polemik Jangka Waktu Pengajuan Gugatan Ke Pengadilan Tata Usaha Negara." *Jurnal Hukum & Pembangunan* 49, no. 4 (2019): 942–58. https://doi.org/10.21143/jhp.vol49.no4.2350.

Mulyana, Dedy. "Kekuatan Hukum Hasil Mediasi Di Dalam Pengadilan Dan Di Luar Pengadilan Menurut Hukum Positif." *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 177–98. https://doi.org/https://doi.org/http://dx.doi.org/10.25072/jwy.v3i2.224.

Mulyani, Tri, Sukimin, and Wahyu Satria Wana Putra Wijaya. "Konsep Mediasi Dalam Penyelesaian Sengketa Tata Usaha Negara Berbasiskan Nilai Keadilan Pancasila." *Jurnal Ilmiah Galuh Justisi* 10, no. 1 (2022): 133–59. https://doi.org/10.25157/justisi.v10i1.5773.

Orfin, Agnieszka. "Efficiency of Criminal Proceedings and Their Cost." *Przegląd Prawniczy Uniwersytetu Im. Adama Mickiewicza*, no. 14 (2022): 297–320. https://doi.org/https://doi.org/10.14746/ppuam.2022.14.14.

Pawłowska, Elżbieta, Paweł Witkowski, and Paulina Trybus. "Mediation as an Innovative Dispute Resolution Tool Based on the Example of Public Organizations." *Zeszyty Naukowe. Organizacja i Zarządzanie/Politechnika Śląska*, no. 150 (2021): 169–81. https://doi.org/https://doi.org/10.29119/1641-3466.2021.150.13.

Peters, Niek. "The Enforcement of Mediation Agreements and Settlement

Agreements Resulting from Mediation." *Corporate Mediation Journal*, no. 1–2 (2019): 13–19. https://doi.org/https://doi.org/10.5553/CMJ/254246022019003102005.

Pradityo, Randy. "Penyelesaian Perselisihan Internal Partai Politik Secara Mufakat Dan Demokratis/Dispute Resolution of Internal Political Parties in Consensus and Democratic." *Jurnal Hukum Dan Peradilan* 7, no. 3 (2018): 375–86. https://doi.org/http://dx.doi.org/10.25216/jhp.7.3.2018.375-386.

Pranadita, Nugraha. "Perubahan Fungsi Mediasi Dalam Praktek Di Pengadilan Negeri Dan Pengadilan Agama Kaitannya Dengan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan." *Res Nullius Law Journal* 1, no. 2 (2019): 98–104. https://doi.org/https://doi.org/https://doi.org/10.34010/rnlj.v1i2.2619.

Pranoto, Edi, and M Riyanto. "Politik Hukum Eksekusi Putusan Pengadilan Tata Usaha Negara," 2022.

Pratama, Zsa Zsa Bangun. "Kewenangan Ajudikasi Oleh Ombudsman Republik Indonesia Dalam Proses Penyelesaian Sengketa Pelayanan Publik." *JOURNAL EQUITABLE* 5, no. 1 (2020): 89–107. https://doi.org/https://doi.org/10.37859/jeq.v5i1.2467.

Puspitaningrum, Sri. "Mediasi Sebagai Upaya Penyelesaian Sengketa Perdata Di Pengadilan." *Jurnal Spektrum Hukum* 15, no. 2 (2018): 275–99. https://doi.org/10.35973/sh.v15i2.1121.

Putrijanti, Aju. "Jurisprudence of State Administrative Courts in The Development of State Administrative Law." *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 161–74. https://doi.org/10.30641/dejure.2021.v21.161-174.

———. "The Competence of the Administrative Court and Administrative Justice." *Fiat Justisia: Jurnal Ilmu Hukum* 14, no. 2 (2020): 97–112. https://doi.org/https://doi.org/10.25041/fiatjustisia.v14no2.1890.

Rahmah, Dian Maris. "Optimalisasi Penyelesaian Sengketa Melalui Mediasi Di Pengadiln." *Jurnal Bina Mulia Hukum* 4, no. 42 (2019): 1–16. https://doi.org/10.23920/jbmh.v4n1.1.

Riza, Dola. "Keputusan Tata Usaha Negara Menurut Undang-Undang Peradilan Tata Usaha Negara Dan Undang-Undang Administrasi Pemerintahan." *Jurnal Bina Mulia Hukum* 3, no. 1 (2018): 85–102. https://doi.org/10.23920/jbmh.v3n1.7.

Ruslin. "An Existence of State Administration Court in Establishing Good Governance." *Aloha International Journal of Multidisciplinary Advancement (AIJMU)* 1, no. 1 (2019): 1–7.

https://doi.org/https://doi.org/10.33846/aijmu10101.

Sayekti, N., and Isharyanto. "Quo Vadis Object of Civil Court of Justice Disputes After Government Administrative Law : Regional House of People's Representative Decision Concerning Dismissal Recomendation for Regional Chief/Vice Chief Nur." *Aloha International Journal of Multidisciplinary Advancement (AIJMU)* 2, no. 1 (2020): 8–12. https://doi.org/https://doi.org/https://doi.org/10.33846/aijmu20102.

Schaffer, Daniel Kaufman. "An Examination of Mandatory Court-Based Mediation." *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management* 84, no. 3 (2018).

Siregar, Taufik, and Zaini Munawir. "Mediasi Dalam Tiga Sistem Hukum Dan Perannya Di Dalam Terwujudnya Keberhasilan Tujuan Hukum Di Indonesia." *Journal of Education, Humaniora and Social Sciences (JEHSS)* 3, no. 1 (2020): 7–16. https://doi.org/10.34007/jehss.v3i1.161.

Siswara, Majedi Hendi, and Zainal Asikin. "Dispute Resolution Through Mediation in the Court (Court Annexed Mediation) After the Enactment of Supreme Court Regulation No. 1 of 2016." *International Journal of Scientific Research and Management (IJSRM)* 7, no. 06 (2019): 92–97. https://doi.org/https://doi.org/10.18535/ijsrm/v7i6.lla01.

Sobakar, A., and R. Opatskyi. "Mediation as a Form of Pre-Trial Resolution of Disputes Regarding Forced Alienation of Property for Public Needs or for Reasons of Public Necessity." *Analytical and Comparative Jurisprudence*, 2023, 396–400. https://doi.org/10.24144/2788-6018.2023.01.67.

Socawibawa, Nur Indra, and Arif Wibowo. "EFEKTIFITAS EKSEKUSI PERADILAN TATA USAHA NEGARA DI INDONESIA: Peradilan, Tata Usaha Negara, Eksekusi Putusan, Efektifitas." *Jurnal Penelitian Multidisiplin* 2, no. 1 (2023): 45–52. https://doi.org/https://doi.org/10.58705/jpm.v2i1.94.

Somantri, Dikdik. "Challenges In Execution Of Court Decision To Strengthen The Administrative Court Charisma." *Jurnal Hukum Peratun* 4, no. 2 (2021): 123–40. https://doi.org/https://doi.org/10.25216/peratun.422021.123-140.

Suhariyanto, Budi. "Urgensi Kriminalisasi Contempt of Court Untuk Efektivitas Pelaksanaan Putusan Peradilan Tata Usaha Negara." *Jurnal Konstitusi* 16, no. 1 (2019): 193–211. https://doi.org/:https://doi.org/10.31078/jk16110.

Syufaat, Syufaat. "Penerapan Prosedur Mediasi Dalam Penyelesaian Sengketa Wakaf Di Pengadilan Agama." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2018, 21–36.

https://doi.org/https://doi.org/10.24090/volksgeist.v1i1.1678.

T. A. Kobzeva, I. Kulish. "Mediation Procedure in Ukrainian Realities." *Legal Horizons*, 2020. https://doi.org/10.21272/legalhorizons.2020.i25.p34.

Tsiftsi, E. "Mediation in Administrative Disputes." *Law and World*, 2021. https://doi.org/https://doi.org/https://doi.org/10.36475/7.3.9.

Tvaronavičienė, Agnė, Natalija Kaminskienė, Dana Rone, and Rea Uudekull. "Mediation in the Baltic States: Developments and Challenges of Implementation." *Access to Justice in Eastern Europe* 5, no. 4 (2022): 1–23. https://doi.org/https://doi.org/10.33327/AJEE-18-5.4-a000427.

Ustyuzhaninova, E.A. "Mediation in Public Law of Great Britain." *Administrative Law and Procedure*, n.d. https://doi.org/https://doi.org/10.18572/2071-1166-2021-6-64-67.

Verba, I. "Mediation in Administrative Proceedings: Problems of Theory and Practice." *Naukovyy Visnyk Dnipropetrovs'kogo Derzhavnogo Universytetu Vnutrishnikh Sprav*, 2021. https://doi.org/https://doi.org/10.31733/2078-3566-2021-3-186-190.

Wulandari, Desy. "Pengujian Keputusan Fiktif Positif Di Pengadilan Tata Usaha Negara." *Lex Renaissance* 5, no. 1 (2020): 32–56. https://doi.org/http://dx.doi.org/10.20885/JLR.vol5.iss1.art3.

Zhang, Chenyang. "Settlement and Mediation." In *Win in Chinese Courts: Practice Guide to Civil Litigation in China*, 163–66. Springer, 2023. https://doi.org/https://doi.org/10.1007/978-981-99-3342-6_11.

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