Abstract

In case where the State through an administrative agency provides the State's activities and causes damage to any private persons, the State governed under the Rule of Law shall provide a remedy for incurred damage. This leads to the concepts on the liability of the State which is probably arisen from legislative act, executive act or judicial act. In this connection, the State's liability arisen from an administrative act of the executive agency or the liability of an administrative agency under the Thai legal system can be classified into the liability for wrongful act and other liabilities. However, in comparison with the concepts on liability for wrongful act, it is evident that the concept on other liabilities has not yet been developed as it should be due to some limitations. In other words, to understand what other liabilities are, there must be the development of liability for wrongful act because other liabilities are not liabilities in the case of the liability for wrongful act. Apart from this, one of significant reasons is that there are no any principles of other liabilities in which other liabilities are defined. The Administrative Court which has the jurisdiction to try and adjudicate the case involving a dispute in relation to other liabilities of an administrative agency pursuant to Section 9, Paragraph one (3), under the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999) has not yet laid down any principles of other liabilities. The Administrative Court has only decided case by case which dispute is related to other liabilities. As a result, the Administrative Court's precedents in this regard are still not explicit and precise as they should be. Apart from the aforesaid problems, although there is the case involving a dispute which is likely related to other liabilities, both the Administrative Court and the Committee on Conflicts of Jurisdictions are of opinion that it is not related to other liabilities. In fact, the problem on other liabilities of an administrative agency is principally arisen from the lack of principles of other liabilities to define what other liabilities mean and to answer in which cases the private person who is aggrieved due to an act of an administrative agency may claim the administrative agency for remedy. Therefore, this thesis aims to study the concept on other liabilities of an administrative agency to understand initially the substance of other liabilities. The study is carried out in comparative form with the concept on liability of an administrative agency in French and German legal systems.

From the study, it is found that in case where the Administrative Court or the Committee on Conflicts of Jurisdictions is of opinion that the case involves a dispute in relation to other liabilities of an administrative agency, there must be the written law stipulating explicitly that it shall be under the liabilities of an administrative agency due to either the expropriation or the eviction. Alternatively, there must be the Cabinet's resolution to pay compensation to the private person who is aggrieved or affected due to an act of the State to carry out the State's irrigation projects. However, with regard to other liabilities in other cases, there is no any explicit and precise conclusion whether or not they are other liabilities. Consequently, nowadays, with regard to the case involving a dispute in relation to other liabilities of an administrative agency in accordance with Section 9, Paragraph one (3), under the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999), there are three types of other liabilities which can be evidently categorized as follows: (1) other liabilities due to the expropriation; (2) other liabilities due to the eviction; and (3) other liabilities due to the Cabinet's resolution to pay compensation to the private person who is aggrieved or affected due to an act of the State to carry out the State's irrigation projects.

Moreover, although, at present, the principles of other liabilities have not been developed by the court, from the study, the substance of other liabilities in accordance with the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999) can be summarized into five categories as follows: (1) An act causing liability lacks the composition of liability for wrongful act; (2) An act causing liability affects or evicts the rights protected by law; (3) An act causing liability involves an act within the scope of the Administrative Law; (4) An act of an administrative agency brings about damage; and (5) The damage incurred shall be relevant to the act of an administrative agency resulting in the liability.