



Dispute Resolution Mechanisms in the Draft Environmental and Natural Resources Code

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1. Types of Environment and Natural Resource Complaints

A. Civil Complaint (Article 916)

Purpose: Right to compensation for damages:

- Material
- Physical, and
- Psychological

for harm caused by environment and natural resource offenses.

1. Types of Environment and Natural Resource Complaints

B. Criminal Complaint (Article 917)

Purposes:

- ***To Ensure Public order or***
- ***To Ensure Common social benefit***
caused by environment and natural resource
offenses or non-compliance with any provision in the
Environment and Natural Resources Code or special
laws or other relevant legal instruments.

1. Types of Environment and Natural Resource Complaints

C. Complaint Against Environment and Natural Resource Administrative Decisions

Purpose: to appose an environment and natural resource administrative decision:

- Environmental protection measure
- Natural resource management

caused by administrative decisions of the relevant competent authorities.

(Article 918)

1. Types of Environment and Natural Resource Complaints

D. Complaint against Environment and Natural Resource Administrative Activities

Purpose: to claim for compensation for environment and natural resource damages:

- Fulfillment of the duties,
- Execution of an activity,
- Taking an action
- or measure for environmental protection and natural resource management of public officials or competent authorities with responsibilities related to environmental protection and natural resource management, and that have caused environmental harm, violation of rights or the victims' rights to benefits (Article 919)

1. Types of Environment and Natural Resource Complaints

E. Complaint with the Purpose to Protect Public Interest

Purpose: to protect public interest against:

- Environment and natural resource offense
- Non-compliance with provisions stipulated in the Environment and Natural Resources Code, special separate laws and other relevant provisions that arise from the activities of natural persons or legal entities who cause environmental and social harm.

(Article 920)

1. Types of Environment and Natural Resource Complaints

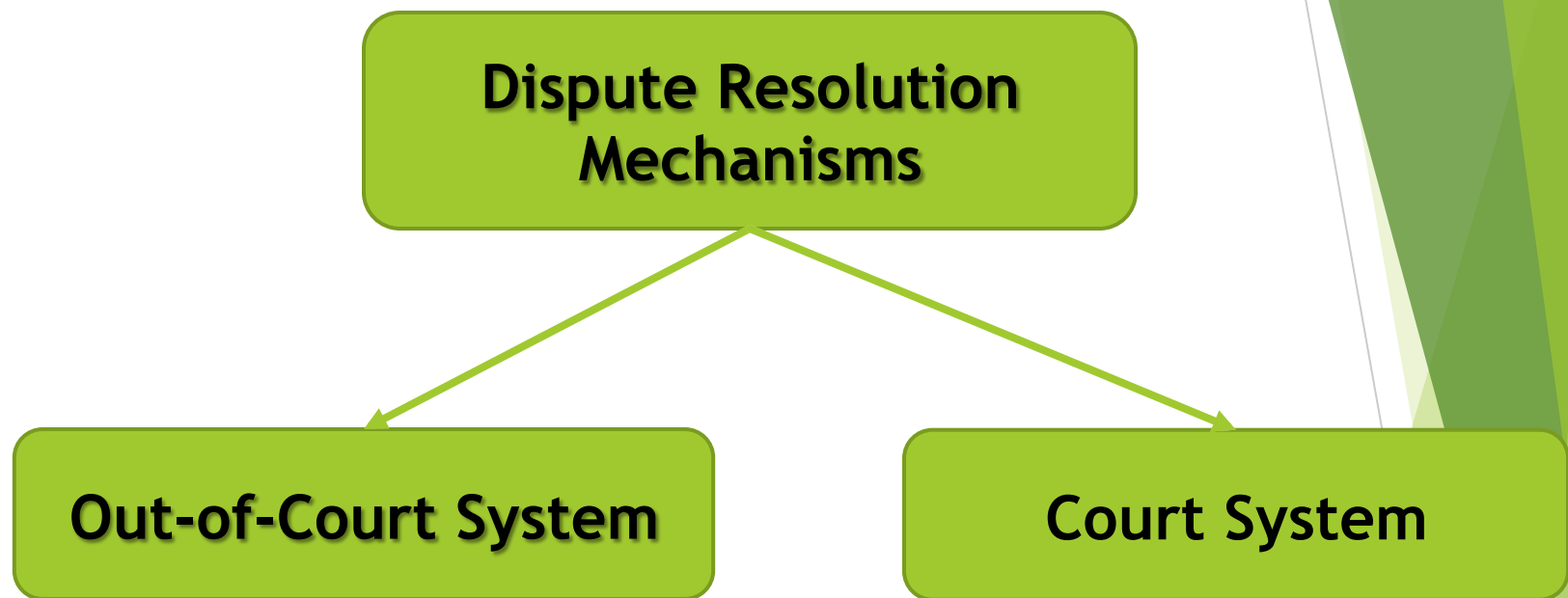
F. Strategic Litigation To Deter Public Participation Complaints

Purpose: of

- preventing, obstructing,
- menacing, or
- suppressing a natural person, legal entity or the public who takes a complaint action against the entity or its economic interest.

(Article 921)

2. Mechanisms for Environment and Natural Resource Dispute Resolution



2.1 Out-of-Court Mechanism

A. Mediation Committee for Environment and Natural Resources at Commune/ Sangkat Level

Jurisdiction(Article 937):

- Receive Complaints
- Forward Complaints
- Provide Consultation Services
- Resolve Disputes
- Reconcile Disputes
- Prepare Records or Compromise Settlement Agreement

Composition(Article 930):

- 3 persons (1 person is the Director and can recruit scientific or technical experts)

2.1 Out-of-Court Mechanism (Cont.)

A. Mediation Committee for Environment and Natural Resources at Commune/ Sangkat level

Resolution: Compromise Settlement Agreement shall be with the participation of parties to determine:

- Compensation for environment and natural resource damage
- Methodology of environment and natural resource restoration
- Procedure to ensure that there will be no potentially additional harm
- The measure to prevent environment and natural resource damages.
- Compromise Settlement Agreement is non-legal binding.
(Article 935)

2.1 Out-of-Court Mechanism (Cont.)

B. National Committee for Environment and Natural Resources Dispute Resolutions

1. National Mediation Council for Environment and Natural Resources
2. National Council for Environment and Natural Resource Administrative Dispute Resolution

(Article 936)

2.1 Out-of-Court Mechanism (Cont.)

B. National Committee for Environment and Natural Resource Dispute Resolutions

1. National Mediation Council for Environment and Natural Resources

Jurisdiction:

- Resolve submitted disputes
- Review and Resolve parties' disputes
- Investigate and ask for information
- Request for technical support and cooperation from relevant institutions. **(Article 938)**

2.1 Out-of-Court Mechanism (Cont.)

B. National Committee for Environment and Natural Resource Dispute Resolutions

1. National Mediation Council for Environment and Natural Resources

Composition(*Article 934*):

- Skilled Official of the Ministry of Environment (Director)
- Skilled Official of Relevant Ministry/Institution (Member)
- Scientific and Technical Expert (Member, if Necessary)
- Civil Society Organization (Member, if Necessary)

Solution and Priority (Article 953, 947):

Compromise Settlement Agreement is legal binding. Every resolution shall prioritize environmental restoration and rehabilitation.

2.1. Out-of-Court Mechanism (Cont.)

B. National Committee for Environment and Natural Resource Dispute Resolutions

2. National Council of Environment and Natural Resource Administrative Dispute Resolution

Jurisdiction: (Article 959)

- Review and issue decisions for complaints against environmental administrative decision or environmental and natural resource activities

2.1. Out-of-court Mechanism (Cont.)

B. National Committee for Environment and Natural Resource Dispute Resolutions

2. National Council of Environment and Natural Resource Administrative Dispute Resolution

Composition: (Article 949)

- Minister of Office of the Council of Ministers or Representative (Director)
- Minister of Ministry of Environment (Vice Director)
- Minister of Ministry or Institution Relevant to The Environment and Natural Resource Dispute (Member)
- Group of Scientific and Technical Experts (Members, if Necessary)
- Other members (Members, if Necessary)

2.1. Out-of-Court Mechanism (Continued)

B. National Committee for Environment and Natural Resource Dispute Resolutions

2. National Council for Environment and Natural Resource Administrative Dispute Resolution

Dispute Resolution Procedure:

- Public Hearing,
- Composition of 3 Judging Board Members; it is with an odd number; the president shall be the representative from the Council of Ministers, who will chair the Public Hearing,
- The judgements shall be announced in the Public Hearing with valid burdens of facts.

(Article 950)

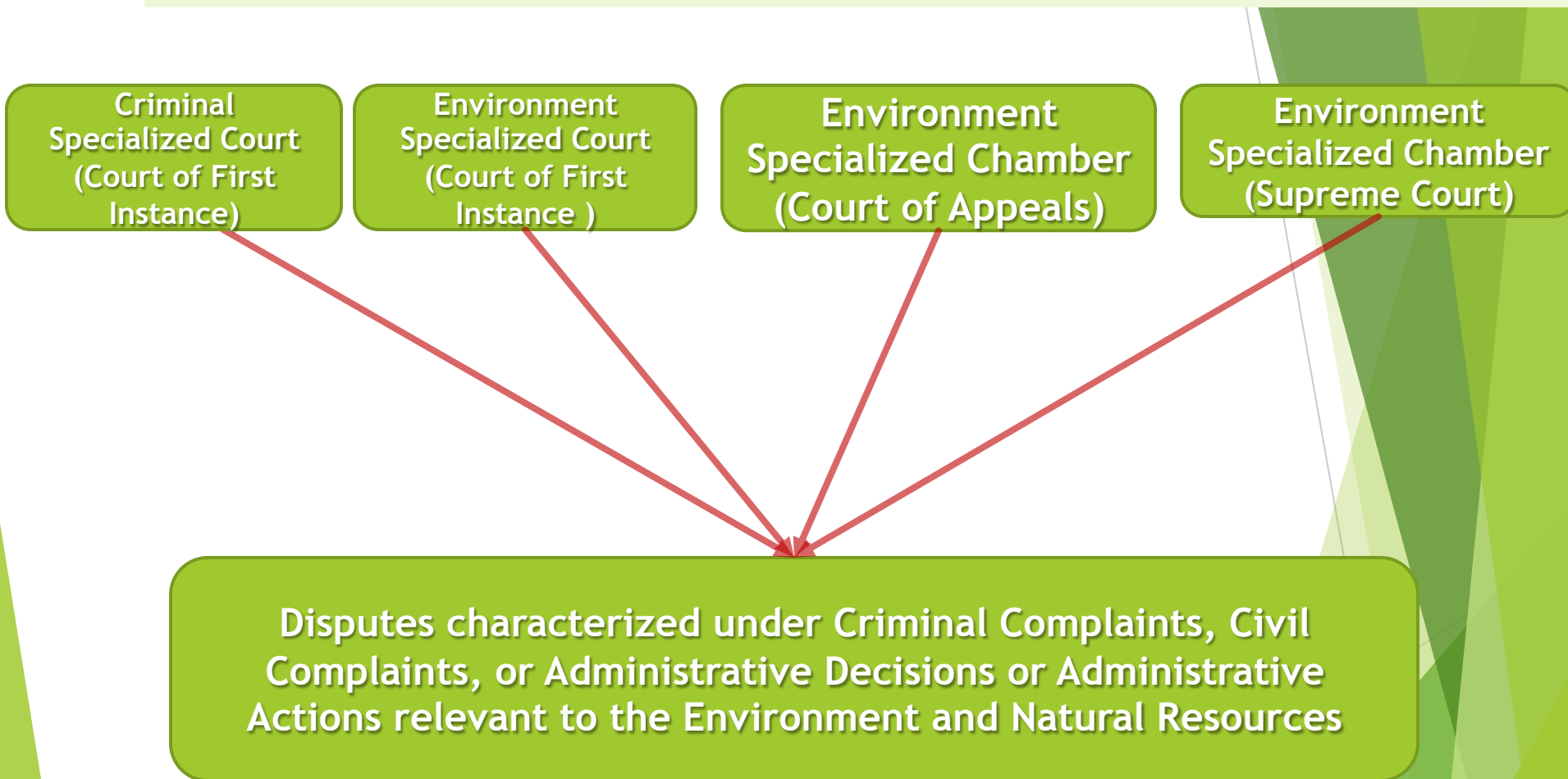
2.2. Court System Mechanism

A. Competent Court

1. Environment Specialized Court under the Court of First Instance (Capital & Provincial),
2. Environment Specialized Chamber under The Court of Appeals,
3. Environment Specialized Chamber under The Supreme Court.

(Article 954)

2.2. Court System Mechanism (Continued)



2.2. Court System Mechanism (Continued)

A. Competent Court

Competence to do legal aspect reviews on civil complaints (with Compromise Settlement Agreement) includes (Article 957):

- Measures and solution alternatives provided under this code,
- Restoring and maintaining the environment and natural recourses as a priority,
- Measures and solutions that are in line with the General Principles of the Code,
- The dispute issues may be resolved through environmental mediation,
- The meaning of Compromise Settlement Agreements shall include public order, social good practices, and consistency with other laws being provided,
- Reviewing for the correctness of the Environmental Medication Procedure,
- Being consistent with the National Policies.

2.2. Court System Mechanism (Continued)

A. Competent Court

Competence to do authentication reviews on Administrative Decisions and/or Administrative Actions (**Article 960**):

- Validity of the Administrative Decisions: Competence to issue a particular decision, errors of forms or procedure of decision-making or abuses of power...
- The fundamental themes of the decisions include: Abusiveness of the laws or other orders, misinterpretation of facts or laws...

2.2. Court System Mechanism (Continued)

A. Competent Court

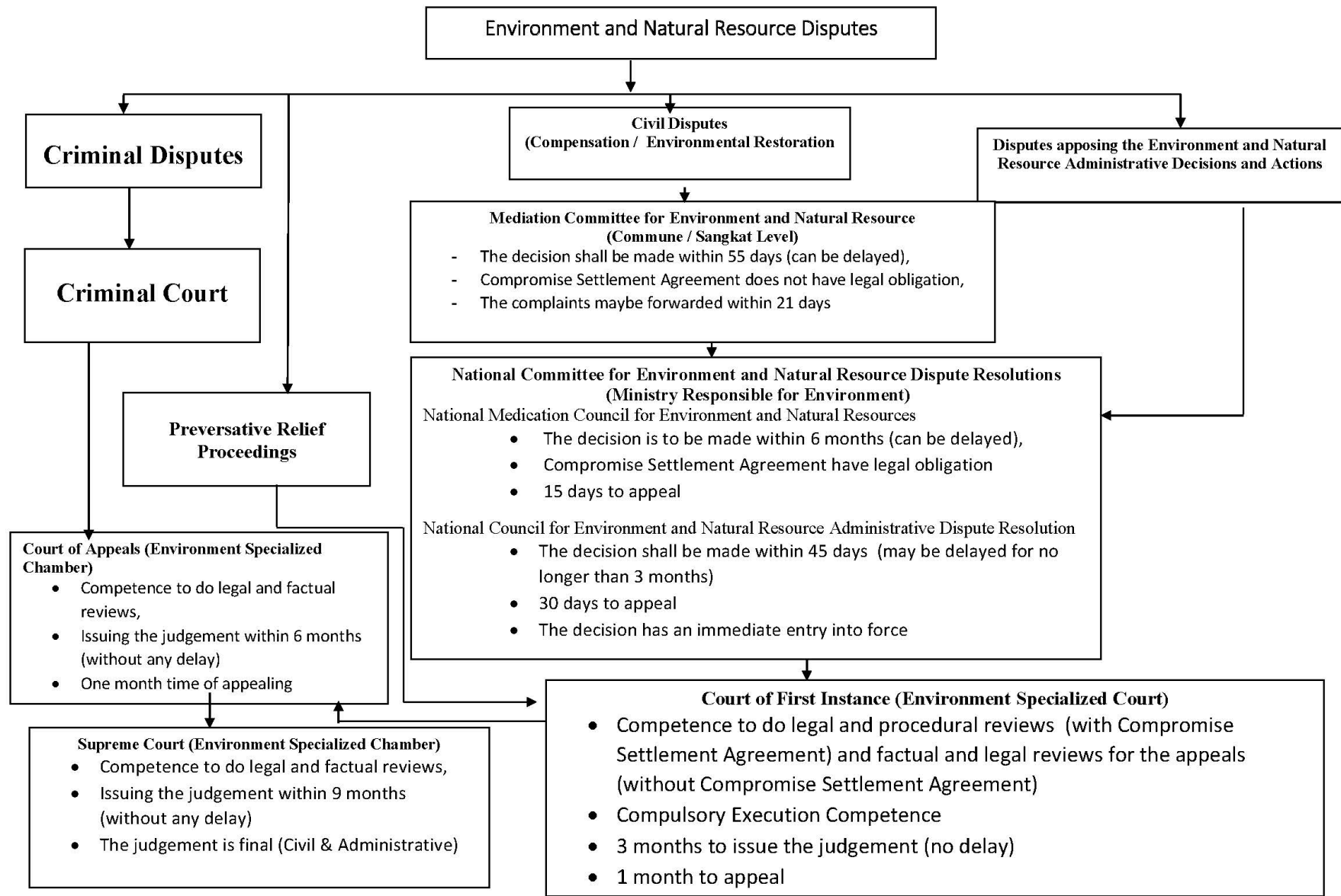
- **Competence to do reviews on Environment and Natural Resource Administrative Actions:**
 - **Environment and Natural Resource Administrative Actions shall comply with the provisions of this Code and other legal instruments,**
 - **Abuse of power.**

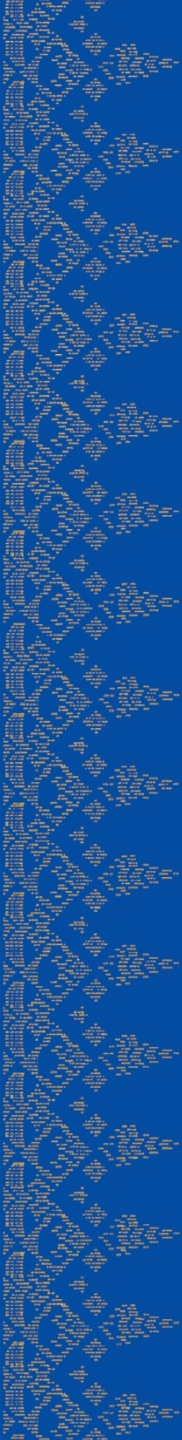
(Article 960)

3. Flowchart of Procedure for Environment and Natural Resource Dispute

Res

Flowchart of Procedure for Environment and Natural Resource Dispute Resolutions





Thank you!

Questions & Answers