



Research Article



The Compliance of Regional Autonomy with State Administrative Court Decisions

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Abstract: Divergent mechanisms governed by several laws in force in Indonesia continue to impede the implementation of decisions rendered by state administrative courts. As a result, issues about the nature of government autonomy, legal consciousness, leadership structures, and political determination arise in the context of regional autonomy. The employed research methodology is normative juridical research, which analyzes articles in the law on state administrative courts about the execution of state administrative court institutions' decisions to identify and formulate legal arguments. This study demonstrates discrepancies in how decisions are executed by state administrative tribunals in Indonesia and several challenges associated with their practical implementation. In order to address these challenges, four conceptual frameworks of executive authority have been developed to establish a mechanism for implementing administrative court rulings in a globalized environment. The evolution model of legal instruments for implementing decisions of state administrative courts, the defense model for various types of implementation such decisions, the law enforcement model for executing state administrative courts, and the execution model as a question vacate.

Keywords: Compliance; Regional Autonomy; State Administrative Court Decisions.



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INTRODUCTION

Currently, to implement state administrative court decisions there are still differences in mechanisms regulated in several laws and regulations in force in Indonesia,¹ such as Law Number 5 of 1986 concerning State Administrative Courts, Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts, and Law Number 51 of 2009 concerning Second Amendments to Law Number 5 of 1986 concerning State Administrative Courts, giving rise to problems in the scope of officials at the central level and regional areas as state administrative bodies or officials, such as legal awareness, leadership environment, political will, and the character of government officials.² This

¹ Ni'matul Huda, Dodik Setiawan Nur Heriyanto, and Allan Fatchan Gani Wardhana, 'The Urgency of the Constitutional Preview of Law on the Ratification of International Treaty by the Constitutional Court in Indonesia', *Heliyon*, 7.9 (2021), 7886 <https://doi.org/10.1016/j.heliyon.2021.e07886>

² Ibnu Sina Chandranegara and Dwi Putri Cahyawati, 'Conflict of Interest Prevention Clause in the Constitution: The Study of the Indonesian Constitution', *Heliyon*, 9.3 (2023), 14679 <https://doi.org/10.1016/j.heliyon.2023.e14679>



condition is caused among other things because it is felt that there are very large causal factors that can influence the level of compliance of regional officials in implementing state administrative court decisions.

The 1945 Constitution of the Republic of Indonesia, as the constitution of the State of Indonesia, has stated the existence of the State of Indonesia as a unitary republic, as contained in Article 1 Paragraph (1) of the Constitution of the Republic of Indonesia, which is the beginning of regional autonomy. Then, it is stated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia that "the State of Indonesia is a state of law." In the concept of the state of law (*rechtsstaat*), it is idealized that what must be used as the basis for the dynamics of state life is law, not power. Regarding the concept of a rule of law, F.J. Stahl formulated the elements of *rechtsstaat*, namely: the protection of human rights; the separation or division of state power to guarantee human rights; a government based on regulations; and the existence of administrative justice.³

Every government action in carrying out government tasks and national development in order to realize the goals of the Indonesian state must have a legal basis or basis of authority; in legal language, every government activity must be based on law; this is known as the principle of legality (*legaliteitsbeginsel or wetmatigheid van bestuur*),⁴ namely the basis for the applicable laws and regulations.⁵ Without the basis of authority granted by applicable laws and regulations, government officials do not have the authority to influence or change the legal situation or position of their citizens. The principle of legality is the central pillar of a legal state.⁶ H. W. R. Wade stated that in a legal state, everything must be done according to the law, and the law, which determines that the government must obey the law rather than the law, must obey the government.

However, there are still several obstacles to implementing state administrative court decisions.⁷ Some of these obstacles include limited public access to state administrative justice due to the need for adequate facilities and infrastructure. This makes it difficult for people to fight for their rights through legal channels. Second, the weak independence of the state administrative judiciary is because the state

³ Eny Kusdarini and others, 'Roles of Justice Courts: Settlement of General Election Administrative Disputes in Indonesia', *Heliyon*, 8.12 (2022), 11932 <https://doi.org/10.1016/j.heliyon.2022.e11932>

⁴ Bas Arts, Bas Heukels, and Esther Turnhout, 'Tracing Timber Legality in Practice: The Case of Ghana and the EU', *Forest Policy and Economics*, 130.June (2021), 102532 <https://doi.org/10.1016/j.forpol.2021.102532>

⁵ Massimo Marelli, 'The Law and Practice of International Organizations' Interactions with Personal Data Protection Domestic Regulation: At the Crossroads between the International and Domestic Legal Orders', *Computer Law and Security Review*, 50 (2023), 105849 <https://doi.org/10.1016/j.clsr.2023.105849>

⁶ Carolina Hurtado-Hurtado, Dionisio Ortiz-Miranda, and Eladio Arnalte-Alegre, 'Disentangling the Paths of Land Grabbing in Colombia: The Role of the State and Legal Mechanisms', *Land Use Policy*, 137.July 2023 (2024), 106998 <https://doi.org/10.1016/j.landusepol.2023.106998>

⁷ Noor Issa Alhendy, 'Stopping Implementation of Administrative Decisions in Saudi Regulation', *Heliyon*, 7.7 (2021), e07638 <https://doi.org/10.1016/j.heliyon.2021.e07638>



administrative judiciary is still very dependent on the central government.⁸ Hence, its independence still needs to be stronger. The political interests and policies of the central government influence some state administrative court decisions. Third, there are limitations in enforcing state administrative court decisions, even though state administrative court decisions have been handed down, there are still many obstacles in enforcing them.⁹

Therefore, since the reform that occurred in 1998 in Indonesia, many laws and regulations have been improved and updated so as to provide improvements in law and the implementation of state administrative court decisions in Indonesia.¹⁰ This started with Law Number 22 of 1999, since it came into force and was then revised with Law Number 32 of 2004 concerning Regional Government. Now, Law Number 23 of 2014 and the Second Amendment to Law Number 9 of 2015 concerning the Second Amendment Based on Law Number 23 of 2014 concerning Regional Government, both provincial and regency or city areas, each stand alone and has no hierarchical relationship with each other. Provincial regions are not superior governments to regional and city regions.

Concerning regional government, the amendments to Chapter VI of the 1945 Constitution are the first amendments to Article 18 and the addition of new articles, namely Article 18A and Article 18B. The regional government system after the amendment to the 1945 Constitution can be observed in the principles contained in Article 18, Article 18A, and Article 18B. The principles contained in Article 18 include: The principle of hierarchical regional division. The principle of autonomy and assistance duties. The principle of democracy. The principle of broadest autonomy. The principles contained in Article 18A include the principles of authority relations, financial relations, public services, and resource utilization. The principles contained in Article 18B include the principle of recognizing memorable or unique regional governments and the principle of recognizing the existence and traditional rights of indigenous peoples.¹¹ Apart from that, Article 1 Number 12 of Law Number 23 of 2014 concerning Regional Government states that an autonomous region, from now on referred to as a region, is a legal community unit that has territorial boundaries and has the authority to regulate and manage government affairs and the interests of the local community according to initiative. It is based on the aspirations of the people in the system of the Unitary State of the Republic of Indonesia.¹²

⁸ Faisal Alshawabkeh and Mohammad Husien Almajali, 'The Influence of the Jurisprudence Administrative on the Cancellation Case; "Analytical Study"', *Heliyon*, 7.3 (2021), 6471 <https://doi.org/10.1016/j.heliyon.2021.e06471>

⁹ Daniil Butenko, Slavka Dimitrova, and Linda Gröning, 'Identifying Deficits in Ukrainian Law: Forensic Psychiatry Misuse in Proceedings of Administrative Offenses', *International Journal of Law and Psychiatry*, 90.June (2023), 1236 <https://doi.org/10.1016/j.ijlp.2023.101920>

¹⁰ Muhammad Adiguna Bimasakti, 'Renewing the Law of Administrative Court Post-Reformation in the Era of Electronic Litigation', *Jurnal Hukum Peratun*, 3.2 (2021), 111–26 <https://doi.org/10.25216/peratun.322020.111-126>

¹¹ Ade Fartini, 'Politik Hukum: Otonomi Daerah Pasca Amandemen UUD 1945 Upaya Menjaga Keseimbangan Antara Prinsip Unity Dan Diversity', *PLEDOI (Jurnal Hukum Dan Keadilan)*, 1.1 (2022), 1–11 <https://doi.org/10.56721/pledoi.v1i1.26>

¹² Dadang Sufianto, 'Pasang Surut Otonomi Daerah Di Indonesia', *Jurnal Academia Praja*, 3.2 (2020), 271–88 <https://doi.org/10.36859/jap.v3i2.185>



For Indonesia, the desire to have a state administrative court has actually existed since the Dutch government era. However, this desire always ends in the middle of the journey for various reasons. This desire was only realized at the end of 1986 regarding the State Administrative Court on December 29, 1986. On the other hand, the administrative court will also provide the same legal protection to state administrative officials who act correctly and in accordance with the law. Thus, the presence of administrative justice can provide legal protection to both citizens and officials against government administrative actions.¹³

The urgency of the existence of administrative justice in realizing the rule of law has encouraged the government to establish a legal system in the field of administrative justice, namely through the establishment of Law Number 5 of 1986 concerning the State Administrative Court, which is the foundation for the establishment of the State Administrative Court in Indonesia. In the explanation of Law Number 5 of 1986, it is stated that the State Administrative Court is held in order to protect people seeking justice who feel they have been disadvantaged as a result of a State Administrative Decision. The existence of these administrative efforts is part of an administrative justice system because administrative efforts are a combination or particular component relating to the State Administrative Court, which both function to achieve the goal of maintaining balance, harmony, and alignment between individual interests and the interests of society or the public interest,¹⁴ so as to create a harmonious relationship between the government and the people in realizing a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The State Administrative Court still needs to fully meet the community's expectations in seeking justice. This is because there are still state administrative court decisions that need to be obeyed by government officials, both in the central government and regional governments.¹⁵ In this case, one of the reasons is that the public is still pessimistic about the existence of the State Administrative Justice Institution. One of the factors causing non-compliance with the decisions of state administrative court judges is that there are no favorable legal rules that shape the legal culture of state officials, central government officials, or regional governments to obey the decisions and orders of state administrative courts, as well as building the pride of state officials in realizing good government.¹⁶

¹³ Chandranegara and Cahyawati.

¹⁴ Bart Custers, 'Computer Law & Security Review : The International Journal of Technology Law and Practice A Fair Trial in Complex Technology Cases: Why Courts and Judges Need a Basic Understanding of Complex Technologies', *Computer Law & Security Review: The International Journal of Technology Law and Practice*, 52.January (2024), 105935 <https://doi.org/10.1016/j.clsr.2024.105935>

¹⁵ Salma Elmallah, Tony G. Reames, and C. Anna Spurlock, 'Frontlining Energy Justice: Visioning Principles for Energy Transitions from Community-Based Organizations in the United States', *Energy Research and Social Science*, 94.December 2021 (2022), 102855 <https://doi.org/10.1016/j.erss.2022.102855>

¹⁶ Eiji Kano and Kazuhiko Tsuda, 'Analysis of Factors Affecting Local Government Officials' Interest in Digital Technology', *Procedia Computer Science*, 225 (2023), 1853–61 <https://doi.org/10.1016/j.procs.2023.10.175>



Good state administration and governance can only be achieved by improving the quality of the state and government apparatus as well as upholding the principles of good general governance. Often, every decision issued by government bodies is prone to feelings of dissatisfaction from the public or to feeling disadvantaged. To resolve one of the examples of problems above, an independent institution is needed to act as a bridge between the two parties as well as provide wise decisions. We can categorize problems like this into disputes about state administration or state administration issues. Then which party has the authority to resolve this problem? In Article 12 Paragraph (1) of Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning State Administrative Courts, it is stated that court judges are officials who carry out judicial duties.

Implementation of the decisions of State Administrative Court Judges often causes difficulties, mainly due to the absence of an executorial institution that functions explicitly to implement the decisions of State Administrative Judges. The implementation of the state administrative judge's decision is wholly left to the awareness of the state administrative agency or official. Hence, its implementation causes many problems and often even gives the impression of an attitude of arrogance from the state administrative agency or official. For this reason, the Minister of State for Administrative Reform issued an order to officials at the center and in the regions to carry out all determinations or decisions of the State Administrative Judge and also wanted to give a warning to their subordinates if they did not comply with the decision of the relevant State Administrative Judge.

From a number of decisions issued by state administrative bodies and officials, there is the possibility of causing losses to those affected by the state administration decisions, namely members of the public. This possibility could be because government officials feel they have a stronger position towards the people they control. According to Paulus Effendi Lotulung, there are formal and material conditions for the validity of a *beschikking*. Therefore, each requirement is formal and material. The object of the decision only concerns the legality aspect of a decision (*beschikking*) of the state administration official, not the person or persons of the state administration official concerned. In relation to the amendments to Law Number 5 of 1986, the author wants to examine the main changes in Law Number 9 of 2004 and Law Number 51 of 2009. In terms of implementing decisions, there is an adequate legal mechanism so that court decisions are correctly implemented.¹⁷

METHOD

The research method used is a normative juridical research method, which is directed at finding and formulating legal arguments through analysis of the articles in the Law on State Administrative Courts relating to the implementation of decisions by State Administrative Court institutions. This research uses secondary data in the form of primary, secondary, and tertiary legal materials. The data collected from the research results were analyzed using the qualitative normative analysis method to produce analytical descriptive data. Analytical descriptive analysis departs from

¹⁷ Hira Sheikh, Marcus Foth, and Peta Mitchell, 'From Legislation to Obligation: Re-Thinking Smart Urban Governance for Multispecies Justice', *Urban Governance*, 3.4 (2023), 259–68 <https://doi.org/10.1016/j.ugj.2023.09.003>



systematic juridical analysis. Then it is explored with comparative analysis to find ideal forms in several countries (*ius constituendum*) because this research starts with existing regulations as positive or normative law.

RESULT AND DISCUSSION

The Compliance of Regional Autonomy with State Administrative Court Decisions

In the context of law enforcement, the success or failure of law enforcement is very dependent on the implementation, or lack thereof, of every court decision that has permanent legal force (*in kracht*). This is the measure of whether the law really exists and can be applied consistently and purely in a legal state. This is also related to the function of the judiciary as a repressive supervisory institution, which must be able to play a more significant role in law enforcement efforts.¹⁸ Existing Conditions of Compliance of State Administrative Officials in Implementing State Administrative Court Decisions.

The existence and role of the State Administrative Court as a judicial institution that has the task and authority to examine, decide, and resolve state administrative disputes between members of the community and the government (executive) is felt by various groups to be still not able to provide adequate contribution in providing legal protection for the community and in creating clean and law-abiding behavior of officials who are aware of their duties and functions as servants and protectors of the community.¹⁹ This condition is caused by, among other things, it is felt to be a huge causal factor that can influence the level of compliance of regional officials in implementing state administrative court decisions, namely the procedures and power of execution in the State Administrative Court, which are inadequate compared to the implementation of executions in the General Court, including First, legal awareness. Regional government officials who have solid legal awareness tend to comply more with state administrative court decisions and implement them well.²⁰

Second, the leadership environment. Good leadership by a local government official can form an organizational culture that obeys the law and respects and implements state administrative court decisions.²¹ Third, political desires. Sometimes local government officials feel tied to specific political desires, which result in the possibility of conflicting with policy directions that are not in line with state administrative court decisions. Fourth, the character of government officials. The

¹⁸ Hanxin Lin and Cheryl Xiaoning Long, 'Do Discretion Criteria for Patent Administrative Law Enforcement Encourage Innovation among Firms?', *China Economic Quarterly International*, 1.2 (2021), 160–75 <https://doi.org/10.1016/j.ceqi.2021.05.001>

¹⁹ Yajie He and others, 'Smart All-Time Vision: The Battery-Free Video Communication for Urban Administration and Law Enforcement', *Digital Communications and Networks*, 9.6 (2023), 1411–20 <https://doi.org/10.1016/j.dcan.2023.05.007>

²⁰ Elena Antonyan and Maxim Polyakov, 'Administrative and Legal Forms and Methods of Combating Corruption in the Field of Public Administration of the Transport Complex', *Transportation Research Procedia*, 63 (2022), 2295–2300 <https://doi.org/10.1016/j.trpro.2022.06.261>

²¹ Jessica Breaugh, Maike Rackwitz, and Gerhard Hammerschmid, 'Leadership and Institutional Design in Collaborative Government Digitalisation: Evidence from Belgium, Denmark, Estonia, Germany, and the UK', *Government Information Quarterly*, 40.2 (2023), 101788 <https://doi.org/10.1016/j.giq.2022.101788>



character and integrity of government officials as state administrative officials can also influence their compliance with state administrative court decisions.²²

The juridical instrument for executing decisions of the State Administrative Court is said to be less executable because the procedural execution of decisions of the State Administrative Court passes through a hierarchical level to the superior official being sued, so in addition to taking a long time, it is also not very effective. The Chairman of the State Administrative Court as the executor only acts as a mediator or correspondent in the process of writing letters to the state administrative agency or official who is being sued or his or her superior to carry out the decision of the state administrative court voluntarily. The State Administrative Court cannot use coercive measures so that the decisions of the state administrative court can be implemented, such as coercive measures in the district court execution process.

Currently, with Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, the provisions regarding the implementation of decisions in the State Administrative Courts are more concrete and penalties are given for State Administrative Officials who do not comply with decisions. State Administrative Court with sanctions in the form of forced money (*dwangsom*) and administrative sanctions and announced in local print mass media. Punishment sanctions, as described above, can be interpreted as an effort to improve and enhance the image and existence of the State Administrative Court in society, which has so far been very apathetic about obtaining justice through the State Administrative Court institution. It is hoped that the fundamental articles in Law Number 9 of 2004 will further realize the aims and objectives of establishing the State Administrative Court institution, namely creating government officials who obey the law and are aware of the law so that their function as servants and protectors of the community can be maximally realized.

Table 1. Mechanism for Implementing State Administrative Court Decisions Based on Legislative Regulations

Law Number 5 of 1986 concerning State Administrative Courts	Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts	Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning State Administrative Courts
There is no obligation for state administrative officials to implement state administrative court decisions.	Coordination between the state administrative judiciary and regional government. After a state administrative court decision is issued, the state administrative court must coordinate with the regional government to ensure the implementation of the decision. Coordination can be done through meetings or official letters.	In the context of regional autonomy in Indonesia, the implementation of state administrative court decisions must take into account the role of regional government laws. This law regulates the authority of regional governments and the obligations of regional government officials in implementing government policies and programs at the regional level.

²² Breugh, Rackwitz, and Hammerschmid.



There are no significant sanctions for state administrative officials who do not implement state administrative court decisions.	Formation of a decision-implementing team. At the beginning of regional autonomy, several regions formed decision-implementation teams to ensure the implementation of state administrative court decisions. This team usually consists of representatives from the state administrative judiciary, regional government, and other related elements.
There is no effective monitoring mechanism to ensure the implementation of state administrative court decisions.	We are monitoring the implementation of decisions by the state administrative court. The state administrative court also monitors the implementation of decisions, and if a violation occurs, it can issue an implementation order.
There is no community involvement in the process of implementing state administrative court decisions.	Administrative sanctions for parties who do not comply with state administrative court decisions. Regional governments can impose administrative sanctions on parties who do not comply with state administrative court decisions, such as sanctions in the form of fines or termination of contracts.

Based on Table 1. Above in Law Number 5 of 1986 concerning State Administrative Courts there are still many problems in implementing State Administrative Court Decisions compared to after the emergence of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts. Then, in the context of regional autonomy in Indonesia, the implementation of state administrative court decisions must take into account the role of regional government laws. This law regulates the authority of regional governments and the obligations of regional government officials in implementing government policies and programs at the regional level.

The Compliance with State Administrative Court Decisions in Several Countries

This research also uses a comparative approach as comparison material, such as the State Administrative Court in the Netherlands, the State Administrative Court in France, and the State Administrative Court in China. This is done to enrich research, which is expected to broaden the insight of legal practitioners, especially judges and state administration officials. Comparative studies can be carried out by emphasizing library research, namely through documents reporting judges working visits to the country concerned. These three countries were chosen for comparison for reasons explained below.



Table 2. Mechanisms for Implementing Administrative Court Decisions in the Netherlands, France, and China

Administrative Justice in the Netherlands	Administrative Justice in France	Administrative Justice in China
Announcement of a judicial decision: Once a judicial decision is issued, the decision is announced by the court, and the parties involved in the case are given a copy of the decision.	Verify the verdict. The <i>Préfet</i> must examine and verify the decisions of the state administrative court before implementing them. This verification aims to ensure that the decision does not conflict with statutory regulations and government policies.	Announcement of a judicial decision: Once a judicial decision is issued, the decision is announced by the court, and the parties involved in the case are given a copy of the decision.
Voluntary implementation of the decision: The losing party in the case is given time to comply with the decision. If the losing party chooses to comply with the decision, then the implementation of the decision is carried out voluntarily, and the settlement is carried out outside of court.	Communication of decisions. After verifying the decision, the <i>Préfet</i> must communicate the decision to the relevant parties. This is done to ensure that all parties related to the implementation of the decision understand and are ready to implement the decision.	Voluntary implementation of the decision: The losing party in the case is given time to comply with the decision. If the losing party chooses to comply with the decision, then the implementation of the decision is carried out voluntarily, and the settlement is carried out outside of court.
Forcible execution of the decision: If the losing party in the case refuses to comply with the judicial decision, state administrative officials can enforce the decision by force. Forced implementation of a decision is carried out by issuing a warrant or obtaining approval from the court to implement the decision. If the losing party still refuses, then settlement can be carried out through further legal processes.	Implementation of the decision. Once the decision is communicated, the <i>Préfet</i> must immediately implement it. The implementation of the decision is carried out in accordance with applicable statutory provisions and procedures.	Forcible execution of the decision: If the losing party in the case refuses to comply with the judicial decision, then state administrative officials can enforce the decision by force. Forced implementation of a decision is carried out by issuing a warrant or obtaining approval from the court to implement the decision. If the losing party still refuses, then settlement can be carried out through further legal processes.
Implementation of decisions in the public interest: In some cases, implementation of judicial decisions may require reassessment to determine whether implementation of the decision takes into account the public interest. In this case, the party who loses the case can ask the government to evaluate the decision and consider the public interest.	Notification of the implementation of the decision. After the decision is implemented, the <i>préfet</i> must notify the parties concerned about the implementation of the decision. This notification aims to ensure that all parties related to the implementation of the decision understand that the decision has been implemented.	Implementation of decisions through reassessment: In some cases, the implementation of judicial decisions may require reassessment to determine whether the implementation of the decision takes into account the public interest. In this case, the party who loses the case can ask the government to evaluate the decision and consider the public interest.



Based on Table 2. in implementing state administrative court decisions in the Netherlands, state administrative officials must comply with applicable legal regulations and maintain the independence of state administrative justice institutions. If there are obstacles to implementing the decision, then the parties involved in the case can file an appeal or cassation with a higher court. In the Netherlands legal system, provisions regarding forced money (*dwangsom*) are regulated in Article 611 of the Dutch Rv.²³ In France, there is also a form of coercion called *astreinte*. In Article de la Loi No. 80-539 of June 16, 1980, and Decree No. 95-830 of June 3, 1995, it is explained, among other things, that if the government does not implement the decisions required of it, it can be subject to *astreinte* (a kind of *dwangsom*).

The longer the decision of the administrative justice agency is not implemented, the greater the burden of forced money that state administrative officials must bear.²⁴ Then, in implementing state administrative court decisions in China, state administrative officials must comply with applicable legal regulations and maintain the independence of state administrative justice institutions. However, sometimes there are obstacles to implementing judicial decisions, such as difficulties in enforcing the law against powerful officials or political influences that can influence court decisions. This shows the importance of maintaining the independence of judicial institutions and avoiding political interference in the implementation of state administrative court decisions.²⁵

The Problems of Compliance with State Administrative Court Decisions

In principle, court decisions may only be implemented after they have obtained permanent legal force. Basically, the execution of a decision is nothing other than the realization of the obligations stated in the decision. In order to realize the obligations stated in the decision, the court must pay attention to and carry them out based on the provisions that specifically regulate them. To answer the issue of whether or not the execution institution can be applied to state administrative officials in regional governments, it must first be clear how the execution institution is applied in practice.²⁶ But in reality, until now, there has been no legal product that further regulates the provisions of Article 116 of Law No. 51 of 2009. In order to examine this problem in more depth, this article offers several thoughts regarding how the

²³ Manuela Dias Fonseca and Sigrid G.C. van Wingerden, 'From Prohibition to Harm Reduction? An Analysis of the Adoption of the Dutch Harm Reduction Approach in Brazilian Drug Laws and Practice', *International Journal of Drug Policy*, 83 (2020), 102842 <https://doi.org/10.1016/j.drugpo.2020.102842>

²⁴ Laurent Barillé and others, 'Biological, Socio-Economic, and Administrative Opportunities and Challenges to Moving Aquaculture Offshore for Small French Oyster-Farming Companies', *Aquaculture*, 521.January (2020), 735045 <https://doi.org/10.1016/j.aquaculture.2020.735045>

²⁵ Chengri Ding and others, 'City Size, Administrative Rank, and Rural–Urban Migration in China', *Journal of Urban Management*, June, 2023, 1–13 <https://doi.org/10.1016/j.jum.2023.12.001>

²⁶ Giorleny Altamirano Rayo, Eric S. Mosinger, and Kai M. Thaler, 'Statebuilding and Indigenous Rights Implementation: Political Incentives, Social Movement Pressure, and Autonomy Policy in Central America', *World Development*, 175.December 2023 (2024), 106468 <https://doi.org/10.1016/j.worlddev.2023.106468>



execution institution is implemented in practice and some of the problems related to regional autonomy.²⁷

A situation like this will be made even worse because those who do not want to comply are public office holders who influence government and society. The court decision itself is still challenging to implement as long as the procedural law does not regulate it explicitly and there is a lack of awareness to respect the court decision by public officials, which includes: (1) A ruling, decree, or dictum is an attempt at a judge's deliberation that is finally decided by the court. A dictum is a court decision that is actually considered the most important final point for the parties to the dispute. In this dictum lies the culmination of the entire trial process that has been underway. The verdict, or dictum of the decision, is an answer to the petitum of the plaintiff's lawsuit.²⁸ (2) State administration agencies or officials are regional heads whose position is as political officials. Regional Head is not a career position. Therefore, regional heads do not apply to disciplinary law provisions that apply to civil servants. Hierarchical relationships will be more effective if they are related to the imposition of sanctions in hierarchical relationships. As a political official, the implementation of state administrative court decisions should involve the *Dewan Perwakilan Rakyat Daerah* (DPRD) as a control institution for sanctions.

Furthermore, (3) The implementation of the decision is due to the fact that the state administrative agency or official being sued is an official who received quasi-delegated authority. In practice, since the implementation of regional autonomy, a head of service, when signing a state administrative decree, is no longer on behalf of the regional head. Still, directly to the head of the service concerned. Thus, if a state administrative dispute occurs, the head of the department concerned will be the defendant. If the lawsuit is granted, is it possible for the head of the department concerned to implement the decision of the state administrative court without the approval of the regional head. This is what is meant by pseudo-delegation in the relationship between regional heads and service heads. Pseudo-delegation has been one of the obstacles in the implementation of state administrative court decisions against regional state administrative bodies and officials, especially service heads. If the lawsuit is granted, is it possible for the head of the department concerned to implement the decision of the State Administrative court without the approval of the regional head. This is what is meant by pseudo-delegation in the relationship between regional heads and service heads. This pseudo-delegation has also been one of the obstacles in the execution of state administrative court decisions against regional state administrative officials, especially service heads.

Apart from that, the implementation of the execution of decisions in the form of payment of forced money (*dwangsom*).²⁹ The philosophy behind the establishment

²⁷ Ambrose Theobald Kessy, 'Decentralization and Administrative Discretion in Tanzania: An Analysis of Administrative Discretion on Human Resources, Finance and Service Delivery', *Social Sciences and Humanities Open*, 8.1 (2023), 100684 <https://doi.org/10.1016/j.ssaho.2023.100684>

²⁸ Paweł Marcin Nowotko, 'AI in Judicial Application of Law and the Right to a Court', *Procedia Computer Science*, 192 (2021), 2220–28 <https://doi.org/10.1016/j.procs.2021.08.235>

²⁹ Dezonda R Pattipawae, Hendrik Salmon, and Natanel Lainsamputty, 'Putusan Tata Usaha Negara Terhadap Ketidakpatuhan Pejabat Tun', *Communnity Development Journal*, 3.3 (2022), 1634–36 <https://doi.org/10.31004/cdj.v3i3.7495>



of the institution of coercive measures in the state administrative court system is that so far, there have been obstacles in executing decisions that have permanent legal force if the defendant does not voluntarily carry out the decision of the state administrative court.³⁰ The absence of coercive means in the provisions of Law Number 5 of 1986 results in the effectiveness of the execution of decisions depending on the good intentions and voluntariness of state administration officials who are busy when the execution must be carried out. The relevant officials are given the authority to carry it out. By referring to the provisions of Article 116 paragraph (3) and (4), the institution of coercive measures in the state administrative court is accessory in nature; that is, its existence depends on the principal punishment in the form of the implementation of obligations by the defendant as intended in Article 97 paragraph (9) letters b and c, so that coercive measures cannot be imposed if the bare punishment has been carried out voluntarily. Similar to the institution of forced money (*dwangsom or astringe*) in civil law, the institution of forced money in the State Administrative Court is *pressie* middle, namely as a means or recording device so that the defendant is morally and psychologically expected to obey and implement the decisions of the State Administrative Court. In accordance with the principle of authority, only state administrative officials have the authority to issue revisions, revoke, or cancel state administrative decisions, not individual defendants.³¹

Finally, implementation of the execution of decisions in the form of administrative sanctions. Analogous to Government Regulation Number 30 of 1980, the decision containing the order to impose administrative sanctions is addressed to the official who has the authority to punish the defendant. The problem is, what if the defendants are the Governor and Regent or Mayor, because according to the Law on Regional Autonomy, hierarchically it has no superior as an official with the authority to punish. In such cases, administrative sanctions are certainly not appropriate to apply, and the judge can choose other coercive measures, namely forced money or *dwangsom*. In the administrative law literature, the essence of administrative sanctions is the exercise of government power by government organs without having to go through a judicial process as an instrument of administrative law enforcement, which is a tool of public power (*publiekrechtelijke machts middelen*) used by the authorities as a reaction to non-compliance with administrative law norms. Administrative law literature mentions various types of administrative sanctions,³² namely (a) Government coercion (*bestuursdwang*), (b) Forced money (*dwangsom*), (c) Administrative fines, (d) Revocation of favorable administrative law decisions, (e) Security deposit, and (f) Other/particular forms.

The application of administrative sanctions as regulated in the provisions of Article 116 Paragraph (4) of Law Number 51 of 2009 is a sanction imposed by the state administrative court as the executor of judicial functions on state administrative

³⁰ Bambang Heriyanto, 'Legal Overview in the Implementation of Dwangsom (Force Money) in Administrative Court', *Jurnal Hukum Peratun*, 4.2 (2021), 141–56 <https://doi.org/10.25216/peratun.422021.141-156>

³¹ Edi Rohaedi and others, 'Kedudukan Uang Paksa (Dwangsom) Dalam Eksekusi Putusan Pengadilan Tata Usaha Negara', *PALAR (Pakuan Law Review)*, 9.2 (2023), 121–29 <https://doi.org/10.33751/palar.v9i2.8581>

³² Sri Nur Hari Susanto, 'Karakter Yuridis Sanksi Hukum Administrasi', *Administrative Law and Governance*, 2.1 (2019), 126–42 <https://doi.org/10.14710/alj.v2i1.126-142>



officials in connection with non-compliance with the decisions of the state administrative court. Thus, the application of administrative sanctions as a coercive measure against state administrative officials who do not want to comply with the decision of the state administrative court as stipulated in Article 116 Paragraph (4) is not in accordance with the essence of administrative sanctions according to the concept of administrative law because administrative sanctions are an authority within the scope of government (executive) functions. In addition, in the legislative regulations in the field of administrative law in Indonesia, there is no standard form regarding the types of administrative sanctions.

Executorial Power Model in Building a State Administrative Court Decision System Based on Regional

First, the execution model as a *quastio vexata*.³³ In the context of the execution model, *quastio vexata* can occur when there is a dispute about whether the court decision can be implemented or not or how the implementation should be carried out. For example, in the case of a land dispute, when a court has issued a decision regarding who has the right to own the land but the losing party refuses to hand over the land to the winning party, *quastio vexata* occurs in the implementation of the court decision. In dealing with *quastio vexata* in the execution model, efforts are needed to solve the problem systematically by involving various related parties, such as the parties involved in the dispute, judges, and law enforcement officials. In some cases, *quastio vexata* can be resolved through mediation or other alternative solutions. However, if it cannot be resolved, it is necessary to take further legal action, such as filing an appeal or cassation.

Second, evolution model of legal instruments for implementing state administrative court decisions. The implementation of a court decision is often referred to as execution. The implementation of a court decision requires a legal instrument to implement it, the contents of which regulate the execution procedure. The legal instruments used in implementing State Administrative Court decisions have undergone an evolution in line with the changes made to Law Number 5 of 1986 concerning State Administrative Courts. Frequent changes in rules relating to the implementation of court decisions, especially Article 116 of Law Number 5 of 1986 concerning state administrative courts, is, in Lon Fuller's view, a form of failure in the formation of statutory regulations. Legal rules should stay the same because, if so, people cannot follow which rules still apply.³⁴

Third, defense model for types of implementation of state administrative court decisions. The procedural law of the State Administrative Court does not explicitly regulate the differentiation of types of execution. Still, it implicitly takes into account the provisions of Articles 116 to 121 of Law Number 5 of 1986 concerning the State Administrative Court as amended by Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986, Law Number 51 of 2009 concerning the

³³ Luis López Guerra, *Vexata Quaestio: Sobre Las Dilaciones Parlamentarias En La Designación de Titulares de Órganos Constitucionales*, *Revista de Las Cortes Generales*, 2020 <https://doi.org/10.33426/rcg/2020/108/1480>

³⁴ Shirley Kempeneer, Ali Pirannejad, and Johan Wolswinkel, 'Open Government Data from a Legal Perspective: An AI-Driven Systematic Literature Review', *Government Information Quarterly*, 40.3 (2023), 101823 <https://doi.org/10.1016/j.giq.2023.101823>



Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, and Article 53 of Law Number 30 of 2014 concerning Government Administration for academic and practical purposes. Differentiation of the types of implementation of decisions of the State Administrative Court can be done temporarily by clarifying the ruling and the period for implementing the decision of the State Administrative Court, which is said to be temporary because it is in line with the development of the emergence of particular state administrative disputes where the State Administrative Court is given authority. To receive, examine, and decide on special state administrative disputes by various laws whose procedural laws are regulated separately.³⁵

Fourth, the law enforcement model for the execution of state administrative courts through government regulation number 48 of 2016 concerning procedures for imposing administrative sanctions on government officials. As is known, the mandate of Article 116 Paragraph (7) of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts is that the provisions regarding administrative sanctions and procedures for implementing administrative sanctions are more regulated, further with legislation that has not yet been formed. The absence of statutory regulations regarding administrative sanctions and procedures for implementing administrative sanctions has resulted in stagnation in the implementation of State Administrative Court decisions in the event that the defendant agency and government officials do not want to implement State Administrative Court decisions even though the mechanism regarding execution has been completed.³⁶

Making a decision and taking action because regulations are incomplete or unclear, still require further explanation, overlap, and require implementing regulations but have not yet been made into the realm of discretion as regulated in Article C of Law Number 30 of 2014 concerning government administration in judicial institutions is known as "judicial discretion.". Law Number 30 of 2014 concerning Government Administration Article 7 Paragraph (2) letter k, and I, in conjunction with Article 72 Paragraph (1), have laid down the implementation of valid decisions, actions, and decisions that have been declared null and void by the Court, complying with the Court's decision, which has permanent legal force as an obligation for government officials; this is reaffirmed in Article 3 Paragraph (2) letter k, and I, Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials. Because implementing the Court's decision is an obligation, non-compliance with the implementation of Article 72 Paragraph (1) is qualified as a violation and is subject to administrative sanctions as specified in Article 80 Paragraph (2) of Law Number 30 of 2014 concerning Government Administration.

³⁵ Jon E. Zibbell and others, 'Associations between Opioid Overdose Deaths and Drugs Confiscated by Law Enforcement and Submitted to Crime Laboratories for Analysis, United States, 2014–2019: An Observational Study', *Lancet Regional Health - Americas*, 25 (2023), 100569 <https://doi.org/10.1016/j.lana.2023.100569>

³⁶ Nicholas Lassi, 'Strengthening Pill Press Control to Combat Fentanyl: Legislative and Law Enforcement Imperatives', *Exploratory Research in Clinical and Social Pharmacy*, 11.August (2023), 100321 <https://doi.org/10.1016/j.rcsop.2023.100321>



CONCLUSION

There are differences in the mechanisms for implementing state administrative court decisions currently in operation in Indonesia. The mechanism in Law Number 5 of 1986 regulates the implementation of the decision of the state administrative court. If the defendant in this case does not implement the decision of the state administrative court, the chairman of the court submits this matter to the defendant's superior according to the level of office in Law Number 9 of 1986. In Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, it is emphasized that provisions regarding the amount of forced money, types of administrative sanctions, and procedures for implementing payments of forced money and administrative sanctions are regulated by statutory regulations. Based on these, there are four additional issues with the application of permanent state administrative court rulings. Thus, on the basis of the two discussions above, four models of executive power were formulated: (1) the execution model as a *quastio vexata*; (2) the evolution model of legal instruments for implementing state administrative court decisions; (3) the defense model for types of implementation of state administrative court decisions; and (4) the law enforcement model for the execution of state administrative courts through Law Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials.

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