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General Principles of Good Government on the Competence of Government Apparatus in Making State Administration Decisions

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Abstract: *This research will focus on specific aspects in PTUN decisions that can act as a guide for government officials in improving the quality of administrative decision making. Investigating the impact of PTUN decisions on changes or improvements to administrative policies within government officials is also the aim of this research. This research will identify potential gaps between PTUN decisions and administrative decision-making practices by government officials, as well as analyze the implications of these gaps for their competence. Furthermore, this research will examine how participation and coordination between government officials and legal institutions such as PTUN, can contribute to enriching the process of making better administrative decisions. The research method used is the normative juridical method. It is hoped that the results of this research will provide new insight into the importance of collaboration between government officials and legal institutions in improving the quality of administrative decision making in Indonesia.*

Keywords: *General Principles of Good Government; Government Apparatus; State Administrative Decisions*

INTRODUCTION

The State Administrative Court is a court institution that has the authority to investigate, examine and provide decisions regarding disputes related to state administration. (Dani, 2018) Article 1 Number 10 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts defines state administrative disputes as disputes in the field of government administration between individuals or civil legal entities and administrative institutions or officials state, both at the central and regional levels, which arise as a result of the issuance of state administrative decisions. This also includes disputes related to personnel issues based on applicable laws and regulations.

Based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia is recognized as a legal state. The principles of the rule of law, as outlined by *The Commission of International Jurists*, include: (1) The state's obedience to the law; (2) Government respect for individual rights; (3) Neutral judicial independence. (Asshiddiqie,

2011)Therefore, Indonesia as a legal state has judicial power carried out by the Supreme Court and subordinate judicial bodies, including the general, religious, military, state administrative courts and the Constitutional Court.

In France, administrative courts emerged as a result of the French Revolution which ended absolute monarchy. Under Napoleon's leadership, the Conseil d'État was formed to prevent arbitrary actions by leaders. The Conseil d'État then became the pinnacle of the administrative justice system in France.(Asyiah, 2015)

Through the existence of state administrative courts (PTUN) in various modern countries, especially those that adhere to the welfare state ideology, it provides hope for society to protect rights that are disturbed by public legal actions of state administration officials regarding their decisions or policies. (Syaha, 2017)In Indonesia, as a rule of law country, guidance to state administration officials emphasizes compliance with laws and regulations and the General Principles of Good Government (AAUPB).

Law Number 30 of 2014 concerning Government Administration describes AAUPB in Article 10 paragraph (1), which includes:

- a. legal certainty;
- b. balanced benefits;
- c. impartiality;
- d. thoroughness;
- e. not abuse authority;
- f. openness;
- g. public interest; And
- h. good service.

These AAUPB principles must be the basis for every government apparatus in its efforts to realize effective governance. Therefore, it is important to understand the role of PTUN in supervising state administrative officials in carrying out government activities, as a step to realizing good governance, in line with AAUPB principles.

The State Administrative Court has the authority to examine, make decisions and resolve disputes involving State Administrative Decisions. The decisions that are the focus of disputes in the State Administrative Court are explained in Article 1 to Article 52 of the State Administrative Court Law, which also functions as material law. (Riza, 2018)The issuance of this State Administrative Decree is an administrative action carried out by a State Administrative Agency or Official. In their role as public servants in the administrative sector, every step taken by State Administrative Bodies/Officials in making decisions is part of government administration.

Administrative decision making by government officials is a crucial aspect in carrying out public service duties. However, this process is often colored by the complexity of applicable laws and regulations. Decisions of the State Administrative Court (PTUN) as a law enforcement agency have an important role in assessing and deciding on administrative decisions taken by the government (Kamil, 2021). The implications of PTUN decisions on the administrative decision-making process by government officials are a very relevant thing to pay attention to.

Increasing the competence of government officials in making administrative decisions is also a crucial aspect in maintaining the quality of public services and the sustainability of administrative processes in our country. (Harjiyatni & Suswoto, 2017)There is an important moment in this case, namely when the State Administrative Court (PTUN) decision is given regarding administrative decisions taken by government officials. The implications of this decision have a significant impact on the process and competency development of government officials. In this context, it needs to be understood that the PTUN decision emerged after going through a legal process involving in-depth judgement and technical considerations. This decision may affect the framework, procedures and administrative policies implemented by

government officials. Thus, an in-depth understanding of the implications of PTUN decisions is very important for government officials to avoid legal violations that could harm the parties concerned.

Based on the background above, this article will discuss how the implications of PTUN decisions have the potential to increase the competence of government officials in making administrative decisions. In this context, positive impacts will be considered such as improving the quality of decision making, better understanding of administrative law, and awareness of the importance of transparency and accountability in administrative processes. This article will also discuss challenges that may arise as a result of the PTUN decision. These challenges include expanding legal and regulatory knowledge for government officials, potential changes in operational procedures, and the need for better coordination between relevant institutions in order to effectively implement PTUN decisions.

METHOD

This research is a normativ research, the nature of this research is descriptive-prescriptive. (Bima & Saputra, 2022). This aims to investigate legal principles using statutory regulations relating to a problem which is carried out by reviewing secondary data or library materials only. (Soekanto, 2007)

RESULTS AND DISCUSSION

What specific aspects of PTUN decisions can be used as a guide for government officials in making good administrative decisions?

The State Administrative Court was regulated for the first time in Law no. 5 of 1986 concerning State Administrative Courts. Koesoemahatmadja is of the opinion that justice in purely state administration cases and civil cases involving state administration, namely civil cases as a cause of state administration actions. (Koesoemahatmadja, 1975)

Government Administrative Decisions, also called State Administrative Decisions (KTUN) or State Administrative Decisions, hereinafter referred to as Decisions, are written decisions issued by Government Agencies and/or Officials in administering government.

The purpose of establishing and the position of a State Administrative Court (PTUN) cannot be separated from the state ideology adopted. Individual rights and interests as well as community rights are upheld in the Unitary State of the Republic of Indonesia because it is a legal state based on Pancasila and the 1945 Constitution. The interests of society or the general interest are balanced with the interests of individuals. (Marbun, 1988)

According to SF Marbun, the establishment of the State Administrative Court (PTUN) is philosophically aimed at achieving harmony, conformity, balance, and achieving protection of individual rights with the interests of society or the public interest. (Marbun, 2002)

After the enactment of Law no. 30 of 2014, the PTUN experienced an expansion of its authority by being able to assess whether or not there were elements of abuse of authority committed by state administration officials as contained in Article 21 paragraph (1) of Law 30 of 2014 concerning Government Administration which states that the court has the authority to examine, accept, and decide whether or not there are elements of abuse of authority by government officials.

Indonesia, which is currently still a developing country, requires a lot of government intervention to realize the goals of a welfare state, *especially* in the field of development because the government has a role as a policy holder who will later design development so that it can realize the goals of a prosperous people. Through the concept of statehood, the function of government can be seen in 3 forms, namely: (Hayati et al., 2005)

- a. In the beginning, the government was only a guardian of security and order in the exercise of citizenship. This is the longest and most developed government pattern since the country first developed.

- b. Then, with the presence of the meaning of the definition of *service state*, there is something new in the form of the government's role as a social servant of the needs that need to be regulated in society in order for the government to be able to realize community welfare based on the idea of a *welfare state*.
- c. In recent developments, there is a new role for the government as a driver of community renewal and development initiatives in the context of implementing development. The government also plays a role as a provider of services to the public.

Irving Swerdlow divides the role of government in government activities and the development process in five ways, namely: (Hayati et al., 2005)

- a. Direct operations in which the government carries out all government development activities and processes itself.
- b. Direct control is a way of carrying out the government's role by carrying out authorized government bodies in accordance with applicable laws and regulations.
- c. Indirect control is carried out by providing regulations and conditions that must be implemented in the context of development and governance
- d. Direct influence, which is implemented by means of persuasion and advice so that the wider community can participate in the implementation of development, either directly or indirectly.
- e. Indirect influence is the lightest form of intervention from governments in the implementation of development, such as by simply providing information, explaining government policies that will be implemented or by providing counseling and guidance to be more accepting of new things in the context of renewal and development.

Through the explanation outlined above, it can be assessed that the government's role is very large in carrying out development programs. The government's role can start from planning, deciding and carrying out directly a role from another party which can be a supporter or complement of things determined by the government and a development program so that all parties involved in development have the same goals as expected by the government. which is based on statutory regulations. This is because principles that form a strong foundation are very necessary in this case as a reference that will control or guide the direction of the government's movements in every policy or decision. This principle became known as the General Principles of Good Government. AAUPB is the basic principle that will be used by all state officials in running their government.

To be able to carry out statehood and government in a country requires other requirements so that state life and government can run well, guided by the principles of justice. Therefore, Prajudi Atmosudirdjo mentioned several requirements that must be fulfilled in administering government, namely:¹

- a. Effectiveness,
- b. Legitimacy,
- c. jurisdiction,

¹Prajudi Atmosudirdjo's opinion as quoted in Juniarso Ridwan and Achmad Sodik Sudrajat's book, *Administrative Law*, p. 135. It was explained that, *effectiveness*, means that the activities must meet the targets that have been set; *legitimacy*, meaning that state administration activities should not cause a stir because they cannot be accepted by the local community or the environment concerned, *juridity*, namely the requirement that states that the actions of state administration officials must not violate the law in the broadest sense; *Legality*, namely the requirement which states that actions or decisions of state administration may not be carried out without a legal (written) basis in the broadest sense, if something is carried out fairly, the "state of emergency" must be proven later. If it is not proven, then the act can be challenged in court. *Morality*, which is one of the conditions that society pays most attention to, general and official morals and ethnicity must be upheld, indecent acts, rude attitudes, impoliteness, inappropriate words and so on must be avoided. *Efficiency* must be pursued as optimally as possible, cost savings and productivity must be strived for as high as possible. The highest possible *techniques and technology must be used to develop or maintain the best possible quality of performance*.

- d. Legality,
- e. Morality,
- f. Efficiency,
- g. Engineering and Technology.

Every government administrator, especially those involved in public services, must have service standards to guarantee all of these things. Because to achieve certainty, justice and equality, government can provide certainty in every service which is a characteristic of good government, public service standards are an important component in achieving these goals.

As stated in Article 1 of the Public Service Law, "Service standards are benchmarks that serve as guidelines for service delivery and a reference for assessing service quality as an obligation and promise of organizers to the public in the context of quality, fast and easy service. affordable and measurable services. So as to be able to produce effective and efficient services and adhere to the principles of the concept of *good governance* (Hadjon et al., 2010) which is the goal in carrying out the government governance process. standard government administration that is used as a benchmark refers to the concept of Good Governance, namely the extent of government administration can be implemented efficiently and can achieve the targets set outlined by statutory regulations in order to create prosperity people towards a welfare society. The aim is to create a developed and peaceful country in providing work spirit and ensuring that all community services are provided access properly so that State servants become role models or exemplary examples in provide good quality service (Saputra & Hasbi, 2021)

In the process of administering government in Indonesia, it is known that there are principles or General Principles of Good Governance which function as the basis for actions in making laws and regulations and also actions or decisions issued by the government. According to Jazim Hamid, the meaning of AAUPB is: (Jazim, 1999)

- a. AAUPB are ethical values that live and develop within the State Administration environment;
- b. AAUPB functions as a guide for state administrative officials in their functions, is a testing tool for administrative judges in assessing state actions (which take the form of determinations/beschikking) and as a basis for the defendant's submission;
- c. Most of the AAUPB are still unwritten principles, which can still be assessed in life in society,
- d. Some other principles have become written legal rules and are scattered in positive legal regulations. Even though some of these principles have changed in written law, they remain legal principles.

In Law Number 30 of 2014 concerning Government Administration, it also regulates the General Principles of Good Government (AAUPB), specifically in Article 10 paragraph (1) it is stated that AUPB includes: "

- a. Legal certainty;
- b. expediency is a benefit that must be considered in a balanced manner;
- c. impartiality;
- d. thoroughness;
- e. not abuse authority;
- f. openness;
- g. public interest; And
- h. good service

The impact of the PTUN decision on improving administrative policies within government officials?

The aim of administering government is to be more in line with the expectations and needs of the community (*citizen friendly*) through the existence of Law Number 30 of 2014

concerning Government Administration (hereinafter referred to as UUAP) which is the basis and guidance for government agencies and/or officials in carrying out their functions as duties, their official.

The State Administrative Court (PTUN) functions as a judicial institution by facilitating public access to justice and supervising the implementation of AUPB which is very important in realizing good governance. The coercive supervision carried out by the PTUN is solely to assess the validity of government legal activities, especially state administrative decisions. The PTUN assesses the validity, process and content of state administrative decisions before they are issued.

Because the judge's decision can implement government governance regulations related to good governance, create new discoveries regarding law regarding legal concepts, especially those related to AUPB, and then the government tries to organize good governance by adding AUPB in various Constitution.(Putrijanti et al., 2018)

PTUN is a court that has jurisdiction over state administrative matters. According to the Explanation to Article 48 of Law Number 5 of 1986 concerning State Administrative Courts, a person or civil legal entity can take administrative action if they are not satisfied with a State Administrative Decision. This process, known as Administrative Objection and Appeal, is carried out within the government itself and there are two types. If the settlement must be carried out by a higher agency or another agency where the relevant decision is made, then the method of resolution will be determined, which is called an "administrative appeal".

The State Administrative justice process has experienced significant changes with the existence of the state administrative justice system which implements Law Number 30 of 2014 concerning Government Administration, often known as UUAP. The trial process at the State Administrative Court will also experience many changes to both substantive law and formal law. Meanwhile, apart from that, specifically State Administrative (TUN) issues for which administrative legal remedies are not available, can be submitted directly to the State Administrative Court (PTUN).

The implementation of the Government Administration Law (UUAP) has an impact on the State Administrative Court (PTUN) system. UUAP has expanded the definition of KTUN and regulated discretion. As a result, administrative disputes become much more complex and there is the possibility of conflict between the government and the community. However, the existence of the PTUN is very important in ensuring the supremacy of law and maintaining a balance between the interests of society and the government. The PTUN's role is to provide legal protection and legal certainty, not only for the community but also for the government.

The PTUN's role is to provide legal protection and legal certainty, not only for the community but also for the government. The PTUN can determine the amount of compensation and the implementation of coercive measures. In the future, an integrated administrative court system is needed to resolve all administrative disputes. However, administrative law enforcement depends on the morality of officials and the clarity of regulations. PTUN decisions can influence administrative policies within government officials in the following ways:

a. Improve administrative policies:

PTUN decisions can be a reference for government officials in improving existing administrative policies. This is done so that the policy does not violate the law and can provide legal protection for the community.

b. Improving the quality of administrative policies

The PTUN decision can be an evaluation for government officials in improving the quality of administrative policies that have been made. Thus, this policy can provide many benefits to society.

c. Increasing the accountability of government officials

PTUN decisions can increase the accountability of government officials in carrying out their duties. In this case, government officials must be responsible for the policies that have been made and must be held accountable for their actions if a violation of the law occurs.

d. Maintaining a balance between the interests of society and the government

PTUN decisions can maintain a balance between the interests of society and the government. This is done so that the policies made do not only benefit the government but also provide benefits to society.

e. Increase legal certainty

PTUN decisions can increase legal certainty for the community. In this case, people can know their rights and can obtain legal protection if there is a violation of the law by government officials.

CONCLUSION

The State Administrative Court is a judicial body that has the authority to examine, consider and provide decisions on cases involving state administration. The purpose of establishing and the position of a country's State Administrative Court (PTUN) cannot be separated from the state ideology adopted by that nation.

The basis for making better administrative decisions for government officials is to follow the aspects in the PTUN decisions, therefore, it can be seen from the legal principles used by judges in deciding PTUN cases and can also be followed from the judicial review tools in the TUN decisions.

Because they can make legal discoveries regarding legal principles, especially those relating to AUPB, PTUN judges' decisions have an important role in enforcing state administrative law related to good governance.

The implementation of the Government Administration Law (UUAP) has a significant impact on the State Administrative Court (PTUN) system. UUAP has expanded the definition of KTUN and regulated discretion. As a result, administrative disputes become more complex, and there is the possibility of conflict between the government and society.

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