



PROBLEMS IN THE EXECUTION OF ADMINISTRATIVE COURT DECISIONS IN EMPLOYMENT DISPUTES

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Abstract

The Administrative Judiciary (Peratun) plays an important role in resolving disputes between citizens and government agencies/officials, including employment disputes. However, in practice, it is often the case that Peratun decisions that have permanent legal force are not voluntarily implemented by government agencies/officials. This results in several problems, including a decline in the court's authority and a loss of public confidence. One of the main causes is non-compliance by officials. In addition, the lengthy dispute resolution process, especially with ordinary proceedings, often makes it impossible to enforce the decision, because the plaintiff has reached retirement age, their term of office has expired, or their position has been filled by someone else. This normative study found that the expedited examination mechanism stipulated in Law Number 5 of 1986 on Administrative Courts and its amendments (Peratun Law) only applies at the first level, so that the appeal and cassation processes still take a considerable amount of time. Another factor is the absence of coercive measures such as those found in the general courts. Enforcement in the Administrative Court relies solely on coercive fines and/or administrative sanctions, so that the Administrative Court often has to rely on the superiors of the defendant, up to the President and the House of Representatives, to urge the implementation of the decision. To overcome this, it is necessary to limit legal remedies, create synergy between the judiciary and the executive, and improve the quality of the decisions themselves, which must be based on philosophical, sociological, and juridical aspects.

Keywords: Administrative Court Decision, Employment Dispute, Execution.

Introduction

In Indonesia, the Administrative Judiciary (Peratun) is part of the judicial branch under the Supreme Court in its organizational structure (Dani, 2018). Peratun has the authority to resolve disputes in the field of administrative law that arise between citizens and agencies or administrative dispute as a result of decisions (*beschikking*) or factual actions (*feitelijke handelingen*) carried out by government agencies/officials (Pasaribu, et al, 2025), including employment disputes (see Article 1 point 9 of the Peratun Law and Article 87 of Law Number 30 of 2014 concerning Government Administration). Philosophically, the existence of Peratun aims to provide legal protection for the rights of citizens, thereby creating balance, harmony, and harmonious relations between the community and the government (Ramadan, 2012). With this role, the Administrative Court functions to protect the human rights of citizens and to ensure that the state does not act arbitrarily (Astomo, 2014). This paper will specifically examine employment disputes in the Administrative Judiciary.

Employment disputes related to the dismissal of Civil Servants (*Aparatur Sipil Negara*; ASN) are within the absolute jurisdiction of the Administrative High Court (*Pengadilan Tinggi Tata Usaha Negara*; PT TUN). Meanwhile, civil service disputes outside the termination of civil servant are the absolute competence of the Administrative Court (*Pengadilan Tata Usaha Negara*; PTUN). The basic legal basis supporting the existence of Peratun in adjudicating employment disputes includes: Law Number 5 of 1986 on Administrative Courts and its latest amendments (Peratun Law), Law Number 20 of 2023 on Civil Servants (ASN Law), Government Regulation Number 79 of 2021 on Administrative Proceedings and the Civil Service Advisory Agency (PP Number 97 of 2021), Supreme Court Regulation Number 2 of 2023 on Guidelines for the Settlement of Disputes over the Dismissal of Civil Servants and the Termination of Employment Agreements of Government Employees with Employment Agreements in Court (Perma Number 2 of 2023). In the litigation process, Peratun settles administrative disputes filed by the public through a verdict.

In practice, government agencies or officials often do not voluntarily implement Peratun decisions that have permanent legal force (*berkekuatan hukum tetap*; BHT or *inkracht van gewijsde*). As a result, many requests for execution are submitted to the court of first instance handling the case, including employment disputes. Requests for enforcement in employment disputes are filed by the Plaintiff or Petitioner to ask the Court to supervise the implementation of BHT decisions, especially if the verdict is condemnatory (*condemnatoir*) against the Defendant (Yulius, 2018). Meanwhile, decisions that are constitutive or declaratory in nature do not require enforcement because they are automatically applicable (Somantri, 2021). In this case, the chief judge acts as the supervisor of enforcement, while the actual executor of the Peratun decision is the government agency or official itself.

This paper is interesting to study because one of the key factors in the success of administrative justice is the compliance of government agencies or officials (self-respect) with court decisions. Non-compliance by government officials can be considered a violation of human rights. This paper aims to analyze the problems in the execution of employment

dispute decisions that have been BHT by examining several factors that cause the failure of Peratun decision execution, particularly in employment disputes, and offering a normative design to overcome the problems of Peratun decision execution in employment disputes.

Methods

This research is normative legal research (doctrinal legal research) with an emphasis on the study of legal norms governing the settlement of employment disputes in Peratun, particularly in relation to the execution of final and binding decisions (BHT) (Muhdlor, 2012). A normative approach was chosen because the main focus of the research is to analyze the conformity between legal norms, court decisions, and their implementation by government agencies or officials, as well as their implications for the protection of citizens' constitutional rights. This paper also radically attempts to offer a normative design to overcome the problem of the execution of Peratun decisions on employment disputes. To enrich the analysis, this study is supplemented with a conceptual and case approach, so that it is able to explain the issue of execution not only from the perspective of legal texts, but also from the perspective of Administrative Judiciary practice.

Results and Discussion

Problems In The Implementation Of Supervision Of The Execution Of Administrative Court Decisions In Employment Disputes

According to Sudikno Mertokusumo, a judge's decision is: "*A statement made by a judge, as a state official authorized to do so, in court with the aim of ending or resolving a case or dispute between the parties*" (Mertokusumo, 1988). The decision may be in the form of granting the lawsuit, rejecting the lawsuit, dismissing the lawsuit, or declaring the lawsuit invalid as stipulated in Article 97, paragraph 7 of the Peratun Law.

Administrative court decisions with a dictum granting the lawsuit are a crucial aspect of this paper. Once these decisions have become final and binding, they are final decisions that can be enforced. In these decisions, the defendant is required to cancel and revoke the administrative actions (*bestuur handelingen*) that have been taken (see Article 97 paragraph 9 of the Peratun Law). In addition, the Administrative Court may also require the Defendant to issue a new Administrative Decision - in the case of employment disputes, rehabilitation claims are possible - or provide rehabilitation or compensation to the Plaintiff (Somantri, 2021).

In its efforts to realize administrative justice, Peratun is often faced with non-compliance by government agencies/officials in implementing court decisions, including employment disputes (Amalia, 2024). Prof. Dr. Supandi, S.H., M.Hum., states that the culture of non-compliance with the law by these government agencies/officials creates legal uncertainty in the administration of government and development (see Jiwantara & Wibowo, 2014). This results in a decline in the dignity of the court and weak public confidence in the impact of Peratun's decisions.

Furthermore, Prof. Dr. Yulius, S.H., M.H. believes that the problems surrounding the execution of Peratun decisions include issues of legal norms (*in abstracto*) and the reluctance of government agencies/officials to implement decisions (*in concreto*) (Yulius, 2018). In the context of the legal structure, the enforcement agency in Peratun only refers to bailiffs and the supervision of the chief judge, which sometimes does not run according to the rules (on track). As a result, the execution cannot be carried out effectively and efficiently. Therefore, Prof. Dr. Yulius, S.H., M.H. proposes the establishment of a State Enforcement Agency (*Lembaga Eksekusi Negara*; LEN) by the government to carry out the executive functions of the judicial institution (*ibid*).

From a comprehensive perspective, Dikdik Somantri argues that the failure to implement Peratun's decisions is related to the absence of three elements of the legal system, according to Lawrence M. Friedman, namely legal substance, legal structure, and legal culture (Somantri, 2021).

Furthermore, the lengthy process of civil service disputes in Peratun also becomes a problem for enforcement. Civil service/employment disputes with ordinary proceedings take a long time, while civil servants (ASN) may have already reached retirement age, so even if the decision is granted, it cannot be enforced. On the other hand, there are also legal problems in the execution of judgments arising from the reluctance of the National Civil Service Agency (*Badan Kepegawaian Negara*; BKN) to reactivate the Employee Identification Number (*Nomor Induk Pegawai/NIP*) of civil servants (ASN). In practice, in this case, the Plaintiff requested compensation from the chief justice (provisions related to compensation are further regulated in Government Regulation Number 43 of 1991 on Compensation and Procedures for its Implementation in Administrative Courts). In addition, the losses are difficult to detect, especially immaterial losses.

Therefore, pursuant to Article 117 of the Peratun Law, the Plaintiff filed a request for compensation, and the request was granted with differences in the amount awarded. The Compensation Determination of the PTUN Serang in case Number 31/G/2021/PTUN.SRG shows that the compensation granted to the Plaintiff due to the impossibility of rehabilitation exceeded the amount of two million rupiah as stipulated in Government Regulation Number 43 of 1991 on Compensation and Procedures for Its Implementation in Administrative Courts.

In contrast to the PTUN Serang, the Compensation Determination of the PTUN Palangkaraya in case Number 12/G/2017/PTUN.PLK appears to have strictly adhered to the compensation provisions under Government Regulation Number 43 of 1991 on Compensation and Procedures for Its Implementation in Administrative Courts by awarding compensation in the amount of IDR 2,692,000, consisting of IDR 2,000,000 in accordance with the maximum amount set out in Article 14 of Government Regulation Number 43 of 1991 on Compensation and Procedures for Its Implementation in Administrative Courts, plus the costs of the lawsuit and the costs of the execution application (Susilo, 2025).

The author is of the opinion that employment disputes require a mechanism of examination through a speedy process. The expedited procedure is regulated in Articles 98 to

99 of the Peratun Law, which stipulate that the exchange of pleadings and the evidentiary process must be completed within fourteen (14) days. However, the problem is that this expedited procedure applies only at the first-instance level and is not further regulated at the appellate or cassation stages. Ideally, employment disputes should be subject to strict time limits similar to those applied in information commission disputes, election process disputes, and other specific administrative disputes, in order to realize a speedy process and a speedy trial in the handling of employment disputes. *Mutatis mutandis*, this would lead to the harmonization of the duration of dispute resolution.

Furthermore, in the context of disputes whose objects concern provincial minimum wages/regional minimum wages, which are *einmalig* (time-bound), the application and maximization of the speedy process are particularly necessary. Therefore, in order to optimize the quality of judicial decisions, there must be a sense of crisis on the part of judges to engage in judicial *ijtihad* by prioritizing the resolution of employment disputes. This approach is in line with the principle of a judiciary that is simple, fast, and low-cost (Pasaribu, 2025).

Moreover, the author argues that there should be limitations on legal remedies, similar to the restrictions on cassation as provided in Article 45 of Law Number 14 of 1985 on the Supreme Court, as well as Supreme Court Circular Letter (*Surat Edaran Mahkamah Agung*; SEMA) Number 2 of 2019 on the Implementation of the Formulations of the Results of the 2019 Supreme Court Chamber Plenary Meeting as Guidelines for Courts in Performing Their Duties, and SEMA Number 10 of 2020 on the Implementation of the Formulations of the Results of the 2020 Supreme Court Chamber Plenary Meeting as Guidelines for Courts in Performing Their Duties. It is also important for government bodies/officials to take into account Constitutional Court (*Mahkamah Konstitusi*) Decision Number 24/PUU-XXII/2024, which provides limitations on the filing of applications for judicial review. This is intended to anticipate and prevent delays (buying time) by government bodies/officials.

In addition, the author is of the view that cooperation between the judiciary and the executive is necessary to establish synergy between these two branches in order to facilitate the execution of judgments in employment dispute cases. Furthermore, in order to accelerate the supervision of execution, Articles 64 paragraph (5) and 66 paragraph (5) of Law Number 30 of 2014 on Government Administration (*UU Administrasi Pemerintahan*; AP Law) provide that, no later than twenty-one (21) working days, a judgment that has obtained final and binding legal force (*inkracht van gewijsde*) must be implemented by the relevant government body/official. If it is not implemented, moderate administrative sanctions may be imposed as regulated in Government Regulation Number 48 of 2016 on Procedures for the Imposition of Administrative Sanctions on Government Officials.

Moreover, the execution of Administrative Judiciary (Peratun) judgments in employment disputes does not allow for coercive measures involving security apparatus, as is the case in the execution of judgments of the general courts. Coercive measures in the Administrative Court system are limited to the imposition of coercive fines (*dwangsom*) and/or administrative sanctions (see Article 116 paragraph (4) of the Peratun Law). Therefore,

within the context of hierarchical execution, the Administrative Court places its expectations on the superior of the Defendant, up to the President as the Head of Government, to compel the Defendant to comply with the court judgment (Dinata, 2021).

Thus, several legal problems that arise in the supervision of the execution of judgments in employment disputes stem from the fact that proceedings under the ordinary procedure in such disputes take a relatively long time. As a result, by the time a judgment is rendered and obtains final and binding legal force, the Plaintiff may have reached the mandatory retirement age, the term of office may have expired, the BKN may be reluctant to reactivate the NIP, or the disputed position may have been filled by another party, ultimately causing the granted judgment to be non-executable (Pasaribu, 2025).

Most importantly, the quality of Administrative Court judgments is paramount. High-quality judgments will affect their enforceability, thereby avoiding non-executable decisions. Accordingly, Administrative Court judgments must be grounded in philosophical, sociological, and juridical considerations in order to ensure the realization of justice, legal certainty, and societal benefit (Somantri, 2021).

Normative Design to Address the Problems of Executing Administrative Court Judgments in Employment Disputes

The problems in the execution of court judgments give rise to new turmoil affecting citizens' constitutional rights. This issue constitutes a serious concern for human rights as mandated under statutory regulations. Article 1 point (1) of Law Number 39 of 1999 on Human Rights provides as follows:

"Human Rights are a set of rights inherent in the nature and existence of human beings as creatures of the One and Almighty God and are His gift, which must be respected, upheld, and protected by the state, the law, the Government, and every person for the sake of honor as well as the protection of human dignity and worth."

Human rights impose three obligations on the state: fulfillment (to fulfill), respect (to respect), and protection (to protect) (Pasaribu, 2025). Fulfillment means that the state must adopt policies to ensure that citizens' rights are realized. Respect requires the state not to enact policies that harm citizens' rights. Protection ensures that state authorities enforce the law when human rights violations occur (Ahmad et al., 2024).

The problems in the execution of Peratun judgments, including those arising from employment disputes, have been discussed earlier. The supervision of execution carried out by the chief judge of the court may be regarded as a judicial mechanism provided by the judiciary to accommodate the protection of human rights and to function in addressing human rights violations.

The author proposes several measures that may be undertaken by stakeholders to address human rights violations through the optimization of the supervisory mechanism for the execution of Administrative Court judgments, as follows:

First, strengthening execution authority. A stronger mechanism is required so that Administrative Court judgments can be directly executed by government bodies/officials. Therefore, the *ius constituendum* of the Administrative Court Law should, in the future, accommodate the establishment of a State Execution Agency (*Lembaga Eksekusi Negara/LEN*) under the government, intended to carry out the executorial functions of the judiciary. This aims to realize proportional legal protection for the public and to meet the demands of good and clean governance.

Theoretically, according to Satjipto Rahardjo, legal protection is an effort to organize the various interests within society so as to prevent conflicts among interests and to allow all rights granted by law to be enjoyed (Nola, 2016). The existence of a special institution performing the executive functions of the judiciary constitutes an effort to organize the various interests of citizens so that civil society may enjoy all rights conferred by law.

Second, sanctions against officials who fail to comply with court judgments. When an official ignores a judicial decision, it means that the official is also disregarding the law and, in essence, failing to carry out the command of the state. Ideally, carrying out the command of the state means complying with legal provisions (Ahmad et al., 2024). Such officials may be subject to administrative or criminal sanctions for deliberately failing to implement Administrative Court judgments. The administrative sanction proposed by the author is removal from office, because in the context of a state based on the rule of law, a government official who does not comply with a court decision is not worthy of being called a government official (i.e., a public servant). As for the criminal mechanism, it may take the form of the offense of contempt of court. Therefore, the President and the House of Representatives (DPR RI) need to accelerate the deliberation of the Bill on Contempt of Court, which would regulate criminal sanctions against government officials who fail to carry out court orders.

Third, strengthening the role of the National Commission on Human Rights (*Komnas Hak Asasi Manusia*) and the Ombudsman of the Republic of Indonesia. Komnas HAM can play a role in supervising and encouraging the implementation of Administrative Judiciary judgments that *mutatis mutandis*, relate to issues of human rights violations. Meanwhile, the Ombudsman of the Republic of Indonesia is a state institution vested with the authority to oversee the provision of public services carried out by state and government administrators and to ensure that public administration is free from maladministration.

Fourth, public and media participation. Public oversight and media coverage can exert pressure to ensure that Administrative Court judgments related to human rights are genuinely implemented by government officials. Public examination activities are expected to serve as a form of social determination in public oversight of government bodies/officials who fail to comply with court orders.

Conclusion

The problems in the implementation of Peratun judgments that have obtained final and binding legal force are related to the failure to fulfill the three elements of the legal

system, namely legal substance, legal structure, and legal culture. Difficulties in executing judgments in employment disputes within the Administrative Judiciary arise from lengthy examination procedures, particularly in employment cases involving civil servants who are approaching retirement age or have already reached the mandatory retirement limit, as well as from the reluctance of the BKN to reactivate the NIP of civil servants (ASN), resulting in judgments that are often no longer executable. In addition, the expedited procedure regulated in the Administrative Court Law applies only at the first-instance level, with no further regulation at the appellate and cassation stages. Therefore, limitations on legal remedies are necessary to prevent deliberate delays, along with synergy between the judiciary and the executive to accelerate the execution of judgments. In addition, execution in the Administrative Courts does not allow coercive measures involving security apparatus, thus relying instead on administrative sanctions and coercive fines. The quality of judgments is the key factor in ensuring the enforceability of Administrative Court decisions, which must be grounded in philosophical, sociological, and juridical considerations in order to guarantee justice, utility, and legal certainty.

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