

A New Era in the Implementation of Rehabilitation and Compensation Rulings in State Administrative Courts

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Abstract

The implementation of court rulings on rehabilitation and compensation in the State Administrative Court has entered a new era with the issuance of execution guidelines for the supervision of rulings with permanent legal force by the Head of the State Administrative Chamber of the Supreme Court of the Republic of Indonesia. These guidelines mark the first time in the history of the Supreme Court that a compensation amount has been reassessed and determined by the Serang State Administrative Court due to the failure to implement rehabilitation in an employment dispute. The compensation awarded does not refer to Government Regulation No. 43 of 1991, which limits compensation to between one hundred thousand rupiah and two million rupiah, but instead is based on the actual losses of the petitioner. This practice has set a positive precedent for the execution of compensation or monetary payments, which is expected to be followed

by other State Administrative Courts. It is hoped that the Plaintiffs/Execution Applicants will follow the legal enforcement procedures outlined in the Minister of Finance Regulation Number 80/PMK.01/2015 regarding the Implementation of Legal Decisions, enabling the realization of compensation payments, and it is recommended that the Minister of Finance execute the legal decisions, especially the Supreme Court's re-determination regarding the compensation payment amount, so that justice for the Plaintiffs/Execution Applicants can be fully realized.

Keywords *Execution, Rehabilitation, Compensation, State Administrative Court*

Introduction

The execution of rulings within the State Administrative Court often faces significant obstacles, one of which is the reluctance and arrogance of officials/defendants to voluntarily comply with court decisions.¹ There are no sanctions from their superiors, leading to the perception that State Administrative Court rulings are like a "*toothless tiger*"—a king of the jungle without teeth, not feared by convicted officials. Moreover, there is an impression that the non-enforcement of final and binding decisions with executory value stems from a lack of supervision by the Chairperson of the State Administrative Court.²

Many studies have explored the failures of the execution system in the State Administrative Courts, examining the legal substance, legal structure, and the legal culture of convicted officials. However, reforms to the execution system have been slow to materialize. As a result, the

¹ Alfonsus Nahak, "Problematika Eksekusi Putusan Pengadilan Tata Usaha Negara dalam Perspektif Hukum Gustav Radbruch," *Jurnal Pendidikan Sosial dan Humaniora* 2, no. 3 (2023): 11659-11674. See also Ary Mukhtian Syah, et al. "Granting Clemency to Antasari Azhar as the Object of a State Administrative Law Dispute." *Indonesian State Law Review (ISLRev)* 6, no. 2 (2023): 177-200.

² Farida Azzahra, "Pemberlakuan Sanksi Administratif: Bentuk Upaya Paksa Meningkatkan Kepatuhan Pejabat Atas Pelaksanaan Putusan Peradilan Tata Usaha Negara (Teori Efektivitas Hukum)," *Binamulia Hukum* 9, no. 2 (2020): 127-40.

justice obtained by litigants often exists only on paper, with little reflection in reality.³

In 2024, the execution of State Administrative Court rulings enters a new era. For the first time in the 33 years since the establishment of the State Administrative Court in 1991, the court has implemented uniform execution supervision guidelines for all Chairpersons and Registrars across the State Administrative Court system (both at the first instance and appellate levels).⁴ This development ensures more systematic and legally certain supervision of execution. Additionally, for the first time in history, the Supreme Court has re-determined the compensation amount to be paid by the Execution Respondent, a practice that had never been previously done, due to the incomplete or failed implementation of rulings related to rehabilitation in employment disputes.⁵

These two developments offer a glimmer of hope that final and binding rulings of the State Administrative Court will be executed by convicted officials.⁶ The execution supervision guidelines not only provide a framework for court Chairpersons to oversee execution but also serve as a guide for Petitioners seeking execution supervision and for Defendants in complying with final rulings, along with the legal consequences for failing to voluntarily execute the ruling.⁷

³ Ismail Rumadan, “Problematika Eksekusi Putusan Pengadilan Tata Usaha Negara,” *Jurnal Hukum dan Peradilan* 1, no. 3 (2012): 435–62.

⁴ Supreme Court of Republic of Indonesia. “Juklak No. 01/KM.TUN/HK2.7/JUKLAK/VII/2024 Tanggal 2 Juli 2024 Tentang Petunjuk Pelaksanaan Pengawasan Pelaksanaan Putusan Pengadilan Tata Usaha Negara Yang Berkekuatan Hukum Tetap,” 2024. Available online (on *Bahasa Indonesia*) at https://kepaniteraan.mahkamahagung.go.id/images/artikel/Juklak%20TUAKA%20TUN_Eksekusi_Juli%202024.pdf

⁵ Dikdik Somantri, “Tantangan Eksekusi Putusan Pengadilan Dalam Memperkuat Kewibawaan Peradilan Tata Usaha Negara,” *Jurnal Hukum Peratun* 4, no. 2 (2021): 123–40.

⁶ Agus Sujiono, Dezonda Rosiana Pattipawae, and Ronny Soplantila, “Akibat Hukum Apabila Pejabat Tata Usaha Negara Tidak Melaksanakan Putusan Pengadilan Tata Usaha Negara,” *TATOHI: Jurnal Ilmu Hukum* 1, no. 4 (2021): 364–75.

⁷ M. Ahlan Shalla, “Analisis Yuridis Terhadap Pelaksanaan Putusan Pengadilan Tata Usaha Negara Banda Aceh Pada Sengketa Keterbukaan Informasi Publik Nomor Perkara 2/G/Ki/2018/Ptun. Bna” *Thesis* (Banda Aceh: UIN Ar-Raniry Banda Aceh, 2022).

Additionally, the guidelines regulate how government agencies, particularly the Government Internal Supervisory Apparatus, the Ministry of Administrative and Bureaucratic Reform, legislative bodies, and the President, should support the enforcement of final and binding State Administrative Court rulings. To ensure legal certainty, the guidelines also address situations where execution cannot be carried out (non-executable rulings), the withdrawal of execution petitions, and the conclusion of execution supervision stages.⁸

Regarding rehabilitation execution, there are two types of rehabilitation in the rulings of the State Administrative Court: employment rehabilitation and action-related rehabilitation. Rehabilitation in employment disputes refers to restoring the plaintiff's rights, including their position, status, and dignity as a civil servant, to what it was before the contested decision. An example of this is the reinstatement of a civil servant who was previously removed from a structural position.⁹

On the other hand, rehabilitation in action-related disputes involves restoring the plaintiff's rights to their original condition, as they were before a governmental action took place. For instance, in a case where a building owned by the plaintiff was demolished by the government, and the plaintiff subsequently wins the case with a final and binding decision, if the ruling includes an order to rehabilitate the plaintiff's building, the defendant must restore the building to its prior condition before the demolition occurred.¹⁰

With the introduction of the execution supervision guidelines by the Head of the State Administrative Chamber of the Supreme Court of Indonesia, the supervision procedures have become more systematic. These guidelines require the court registrar to notify the parties of a final and binding decision containing an order for rehabilitation, and this

⁸ Mohammad Afifudin Soleh, "Eksekusi Terhadap Putusan Pengadilan Tata Usaha Negara Yang Berkekuatan Hukum Tetap," *Mimbar Keadilan: Jurnal Ilmu Hukum*, February (2018): 18-46.

⁹ Dezonda Rosiana Pattipawae, "Pelaksanaan Eksekusi Putusan Pengadilan Tata Usaha Negara Di Era Otonomi," *Sasi* 25, no. 1 (2019): 92-106.

¹⁰ Taufik Hidayat, Yos Johan Utama, and Lapon Tukan Leonard, "Pelaksanaan Rehabilitasi Bidang Kepegawaian Dalam Putusan Peradilan Tata Usaha Negara (Studi Kasus: Putusan Nomor: 042/G/2015/PTUN. SMG Juncto Nomor 100/B/2016/PT. TUN. SBY)," *Diponegoro Law Journal* 11, no. 4 (2022).

must be done within three working days after the ruling becomes final. This is different from other types of execution, which allow up to 14 working days for notification. The objective is to expedite the preparation and implementation of the rehabilitation execution.¹¹

If the defendant does not reinstate the plaintiff to their previous position, possibly because the position has been filled by someone else, an equivalent or comparable position must be offered. If no such position is available, the plaintiff should be given priority for the next available position of the same level before it is offered to anyone else.¹² If the execution of the rehabilitation cannot be carried out or is incomplete due to legal changes or the expiration of the defendant's term of office, the plaintiff can request compensation. In such cases, the failure to execute employment rehabilitation does not render the ruling non-executable; instead, compensation or a monetary payment can be sought.¹³

Currently, compensation payments are only applicable to employment-related rehabilitation, while action-related cases are not yet covered under the guidelines issued by the Head of the State Administrative Chamber. However, future developments in administrative law in concrete cases may allow for such provisions to be accommodated through judicial decisions.¹⁴

The primary principle in determining compensation is to prioritize reaching an agreement between the petitioner and the respondent on the compensation amount. If no agreement is reached, both parties may submit their compensation offers, potentially based on the assessment of an appraiser. If, even after involving an appraiser, no consensus is reached, the Chairperson of the State Administrative Court or the Administrative High Court at the first instance level has the

¹¹ Supreme Court of Republic of Indonesia. "Juklak No. 01/KM.TUN/HK2.7/JUKLAK/VII/2024 Tanggal 2 Juli 2024 Tentang Petunjuk Pelaksanaan Pengawasan Pelaksanaan Putusan Peradilan Tata Usaha Negara Yang Berkekuatan Hukum Tetap."

¹² Charisma Taufiq Nur Rahman, "Problematik Upaya Paksa Terkait Eksekusi Putusan Sengketa Kepegawaian," *Novum: Jurnal Hukum*, January (2023): 35–48.

¹³ Damar Bayukesumo, "Kajian Normatif Eksekusi Atas Putusan Peradilan Tata Usaha Negara," *Thesis*. (Solo: Universitas Sebelas Maret, 2010).

¹⁴ Yos Johan Utama, "Membangun Peradilan Tata Usaha Negara Yang Berwibawa," 2010.

authority to set the amount of compensation that the defendant/respondent must pay.¹⁵

If the parties are still dissatisfied with the compensation amount determined by the Chairperson of the State Administrative Court or the Administrative High Court, they may request a reassessment by the Supreme Court. The Supreme Court will issue its ruling within 21 working days, and this ruling will be final and binding. The defendant/respondent must comply with the Supreme Court's decision, and no further legal remedies are available.

In cases where the compensation payment to the plaintiff is not included in the current year's budget, the compensation must be allocated in the following year's budget. The payment is made by the relevant government agency or state institution, not by the individual official. However, if the official (defendant/respondent) has caused a financial loss to the state, they may be subject to administrative sanctions. This is in accordance with Article 17 of Government Regulation No. 43 of 1991 on Compensation and its Procedures in the State Administrative Court.

Based on the aforementioned background, the research will focus on the following questions: (a) What are the concrete cases that have arisen in the execution of compensation or monetary payments? (b) What legal principles have emerged from the rulings of the Chairperson of the Court and the Supreme Court's reassessments concerning the determination of compensation or monetary payments?

This study employs a qualitative legal methodology, focusing on the analysis of compensation and rehabilitation rulings within the Administrative Court. It integrates both normative and empirical approaches, analyzing legal regulations in the context of their real-world application.¹⁶ The research adopts a normative-empirical design, beginning with case studies on labor disputes that involve compensation and rehabilitation. The normative aspect involves examining legal frameworks such as Government Regulation No. 43 of 1991 and the 2024 execution supervision guidelines from the Supreme Court. The

¹⁵ Khelda Ayunita and Amiruddin Lannurung, *Pengantar Hukum Acara Peradilan Tata Usaha Negara* (Makassar: Tohar Media, 2022).

¹⁶ Alyse Bertenthal, "Administrative Reasonableness: An Empirical Analysis," *Wisconsin Law Review* (2020): 85.

empirical component explores practical challenges in the implementation of these rulings through interviews with judges and legal practitioners, alongside case study analysis.¹⁷

Data collection involves both primary and secondary sources, with secondary data comprising legal documents like statutes, court decisions, and academic literature.¹⁸ Semi-structured interviews with judges and legal practitioners provided insights into practical obstacles in executing court decisions and the effects of the newly introduced guidelines. Data analysis was conducted through several methods, including doctrinal legal analysis to study the legal framework, comparative analysis to contrast decisions from the Chief Judge and the Supreme Court, and thematic analysis to categorize interview data into key themes like execution challenges and guideline effectiveness. To ensure validity and reliability, data triangulation was applied by cross-referencing findings from legal analysis, case studies, and interviews. This comprehensive approach aimed to assess the impact of the 2024 guidelines on the efficiency and legality of rulings, as well as broader administrative law developments that may influence future reforms.¹⁹

Principles in Execution: Current Developments

In the context of civil law, execution refers to the enforced implementation of court decisions with the assistance of public power when the losing party is unwilling to comply voluntarily.²⁰ Or an effort by the winning party to obtain their rights with legal support, compelling the losing party to adhere to the court's ruling.²¹ Meanwhile, in the realm of administrative law, execution pertains to the implementation of final and binding decisions made by the State

¹⁷ Komang Ayu Henny Achjar et al., *Metode Penelitian Kualitatif: Panduan Praktis Untuk Analisis Data Kualitatif Dan Studi Kasus* (Kota Jambi: PT. Sonpedia Publishing Indonesia, 2023).

¹⁸ Ian Dobinson and Francis Johns, "Legal Research as Qualitative Research," In Mike McConville and Wing Hong Chui (eds). *Research Methods for Law* (Edinburgh: Edinburgh University Press, 2017), pp. 18–47.

¹⁹ Philip M. Langbroek et al., "Methodology of Legal Research: Challenges and Opportunities," *Utrecht Law Review* 13, no. 3 (2017): 1–8.

²⁰ M. Yahya Harahap, *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan* (Jakarta: Sinar Grafika, 2017).

²¹ Raden Subekti, *Hukum Acara Perdata Indonesia*, (Bandung: Bina Cipta, 1982).

Administrative Court, aimed at creating or abolishing a legal condition (constitutive) or imposing a penalty (condemnatory), carried out by the defendant themselves under the supervision of the Chairperson of the State Administrative Court or the Administrative High Court.

The principles governing the execution of decisions in the State Administrative Court include the following:

1. *Only Final and Binding Decisions Can Be Executed*

A final and binding decision in the context of the State Administrative Court refers to a ruling that no longer has any ordinary legal recourse available under the applicable laws, including decisions subject to judicial review, decisions from which appeals have been withdrawn, or decisions accepted by all parties. It specifically excludes rulings from the Chairperson of the Court or the panel of judges regarding the suspension of the execution of disputed decisions under Article 67 of Law No. 5 of 1986 on State Administrative Courts, as such decisions do not conclude a case and can be changed or revoked upon appeal or cassation. However, the defendant is still required to comply with them.²²

2. *Executions Can Be Sought Not Only for Penal Rulings but Also for Decisions Creating or Abolishing a Legal Condition*

The court's ruling can be declarative, constitutive, or condemnatory. Examples of rulings from the State Administrative Court include:²³

- a. Granting the plaintiff's claims in full
- b. Annuling the contested decision
- c. Ordering the defendant to revoke the contested decision
- d. Requiring the defendant to issue a new decision on a specified matter
- e. Mandating the rehabilitation of the plaintiff in their position
- f. Imposing a penalty on the defendant to pay compensation
- g. Ordering the defendant to pay court costs

²² Keith Syrett and John Alder, *Constitutional and Administrative Law* (London: Bloomsbury Publishing, 2021).

²³ Ridwan Muhammad, Irham Rosyidi, and Nam Rumkel, "Normative Analysis of Unlawful Acts of State Administrative Officials Related to the Implementation of State Administrative Court Decisions," *International Journal of Education, Information Technology, and Others* 4, no. 4 (2021): 674–83.

Among these examples, ruling number 1 serves as a declarative statement, merely establishing a fact, while ruling number 2 is constitutive as it creates or abolishes a legal condition. Rulings number 3 through 7 are condemnatory in nature. Even though a ruling that annuls the contested decision is constitutive, its execution can still be requested through automatic execution, provided that if the defendant does not annul the contested decision within a period of 60 days without a valid justification, the Chairperson of the Court will issue a decree stating that the contested decision no longer holds legal power.²⁴

This prologue sets the stage for a deeper analysis and discussion on the principles and challenges of executing compensation and rehabilitation rulings within the State Administrative Court, reflecting on both the legal frameworks and practical implications involved.

3. *Execution of the Decision is Carried Out by the Defendant Themselves, with the Chairperson of the Court Supervising the Implementation of the Decision*

Unlike civil cases where execution is carried out by bailiffs under the orders of the District Court Chairperson with the assistance of law enforcement, in administrative cases, execution is performed by the defendant themselves due to the nature of the execution not being a real execution. According to Article 119 of Law No. 5 of 1986 on State Administrative Courts, the Chairperson of the Court is obligated to supervise the implementation of court decisions that have obtained final and binding legal force.²⁵

The article highlights the distinct mechanisms for executing decisions in civil and administrative cases. In civil cases, execution is carried out by bailiffs under the orders of the District Court Chairperson, often with law enforcement assistance, reflecting a coercive approach to ensure compliance. In contrast, administrative cases rely on the defendants typically state institutions or officials to execute decisions themselves. This approach stems from the nature of

²⁴ Nyoman Martana et al., “Discourses of Legal Certainty in Execution of Administrative Court Decision,” *Substantive Justice International Journal of Law 2*, no. 2 (2019): 89–117.

²⁵ Riswandi Abdi, Anis Mashdurohatun, and H. R. Mahmutarom, “Reconstruction of Regulations of the Execution of Justice Value Based Civil Jurisdictions,” *South East Asia Journal of Contemporary Business, Economics and Law 26*, no. 1 (2022): 137-147.

administrative rulings, which are not enforced through physical or punitive measures. Instead, compliance is expected as a matter of institutional accountability, supervised by the Chairperson of the Court, as mandated by Article 119 of Law No. 5 of 1986 on State Administrative Courts. This legal provision requires the Chairperson to oversee the execution of final and binding court decisions, ensuring their proper implementation.

However, this reliance on voluntary compliance raises challenges, particularly when defendants delay or refuse to execute rulings. Unlike civil cases with clear coercive mechanisms, administrative cases lack enforcement tools, creating vulnerabilities in cases of deliberate non-compliance. The supervisory role of the Court Chairperson is also limited, with unclear authority to address such issues effectively. This gap could undermine public trust in administrative justice and the accountability of state actors.²⁶ To strengthen execution, reforms could include introducing sanctions for non-compliance, enhancing the Chairperson's authority, and revising the legal framework to provide clearer enforcement mechanisms. These measures are crucial to ensuring that administrative rulings are respected and uphold the principles of justice and accountability.²⁷

4. *Defendants Who Refuse to Execute Decisions Voluntarily Are Subject to Coercive Measures*

If the defendant is ordered to fulfill the obligation to revoke the contested State Administrative Decision and issue a new State Administrative Decision, as outlined in Article 97 paragraph (9) letters b and c of the Administrative Court Law, or to carry out or refrain from performing and/or to stop government actions as specified in Article 5 paragraph (2) of the Supreme Court Regulation No. 2 of 2019, and the defendant fails to fulfill these obligations within 90 working days, the plaintiff may submit a request to the Chairperson of the Court to order the defendant to execute the decision.

If, within 21 working days following the execution supervision, there is no notification of voluntary compliance with the ruling, the

²⁶ Loren A. Smith, "Judicialization: The Twilight of Administrative Law." *Duke Law Journal* (1985): 427-466.

²⁷ Robert M. Cooper, "Administrative Justice and the Role of Discretion," *The Yale Law Journal* 47, no. 4 (1938): 577-602.

respondent is considered to have not executed the decision. The Chairperson of the Court will then issue an execution decree instructing the respondent to comply with the ruling. If this is not adhered to, coercive measures may be enforced, which include administrative sanctions and/or fines, public announcements in the mass media, and notifications to the President and the Legislative Body, along with a deadline for when the respondent must execute the decision.²⁸

5. *Although Automatic Execution Exists, It Still Must Be Requested*

Automatic execution refers to the execution related to court orders that declare a decision or action invalid, as outlined in Article 97 paragraph (9) letter b of Law No. 5 of 1986 concerning State Administrative Courts. If, four months after a court ruling with final legal force has been issued, the defendant fails to fulfill their obligations as stipulated in Article 97 paragraph (9) letter a, then the contested State Administrative Decision loses its legal power. Automatic execution is performed by the defendant without the need for warnings or coercive measures. However, despite the authority of the Chairperson of the State Administrative Court to declare that the contested State Administrative Decision has no legal effect, it must be based on a request from the executing party. This precaution is necessary to avoid the situation where the defendant has already annulled their decision on their own.²⁹

6. *If the Defendant Cannot Implement the Rehabilitation Decision, It Can Be Replaced with Compensation or Monetary Payment*

Court decisions that impose rehabilitation obligations are limited to disputes in the state administrative sector concerning government employees/civil servant matters. Rehabilitation aims to restore the plaintiff's rights and status as a civil servant to their previous condition before the contested decision was made. This restoration includes rights associated with their position and dignity as a civil servant. If, at the time of the court ruling, the plaintiff's former position is filled by someone else, they can be appointed to another equivalent position. If that is not possible, they will be reinstated at the first opportunity when

²⁸ Kent Roach and Geoff Budlender, "Mandatory Relief and Supervisory Jurisdiction: When Is It Appropriate, Just and Equitable?," *South African Law Journal* 122, no. 2 (2005): 325–51.

²⁹ David Feldman, "Error of Law and Flawed Administrative Acts," *The Cambridge Law Journal* 73, no. 2 (2014): 275–314.

a position becomes available at the same level, as per the provisions outlined in Article 117.³⁰

7. *Agreements Between the Parties Regarding the Implementation of the Decision May Leads to the Withdrawal of the Execution Request*

According to Article 117 paragraph (3) of Law No. 5 of 1986 concerning State Administrative Courts, after receiving the request, the Chairperson must summon both parties to negotiate an agreement on the amount of money or other compensation to be charged to the defendant. Thus, the primary principle in determining the compensation amount that the defendant must pay is the achievement of mutual consent.

Article 117 paragraph (3) of Law No. 5 of 1986 concerning State Administrative Courts highlights the negotiation process as a central mechanism in determining compensation in administrative cases. Once the Chairperson receives a request for compensation, they are obligated to summon both parties the Plaintiff and the Defendant to discuss and negotiate the compensation amount. This process emphasizes the importance of dialogue and mutual agreement in resolving disputes, ensuring that both parties have an opportunity to voice their perspectives. The provision reflects a preference for consensus-driven solutions, reducing the need for prolonged litigation and fostering amicable settlements.³¹

However, the reliance on mutual consent as the primary principle poses challenges, particularly if the parties fail to reach an agreement. Without a clear fallback mechanism or framework for resolving deadlocks, the process could stall, delaying the resolution of disputes and the realization of justice for the Plaintiff. Furthermore, power imbalances between parties—such as when the Defendant is a state entity—may undermine the negotiation process, as the Plaintiff might feel compelled to accept an unfairly low compensation amount. To address these concerns, the negotiation process should be complemented with judicial oversight or predefined guidelines that

³⁰ Māris Badovskis et al., “Public Law,” In *The Law of the Baltic States*, ed. Tanel Kerikmäe et al. (Cham: Springer International Publishing, 2017), pp. 191–275, https://doi.org/10.1007/978-3-319-54478-6_5.

³¹ Aju Putrijanti, “Jurisprudence of State Administrative Courts in The Development of State Administrative Law,” *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 161.

ensure fairness and prevent delays, ensuring that the principle of mutual consent operates within a framework of substantive justice.

8. *Withdrawal of the Execution Request Cannot Be Re-submitted*

One reason for the completion of the monitoring phase of a final and binding court decision is if the execution request is withdrawn by the applicant, possibly due to an agreement or reconciliation. However, it is also important to investigate whether the execution was performed by the defendant before the withdrawal. If it has not been carried out, the plaintiff should still be allowed to submit a new request to ensure the court's decision is enforced, as there is a concern that the defendant might not adhere to the terms of the agreement or reconciliation.

The monitoring phase of a final and binding court decision can be concluded if the plaintiff withdraws their execution request, often due to an agreement or reconciliation reached with the defendant. This withdrawal reflects the resolution of disputes through mutual understanding, which aligns with the principles of efficiency and reducing litigation burdens. However, such withdrawal does not necessarily indicate that the defendant has fulfilled the court's decision or the terms of the agreement. It is crucial to verify whether the defendant has performed the required execution prior to the withdrawal, as this ensures that the withdrawal does not compromise the enforcement of the court's ruling.³²

If the defendant has not executed the court's decision or failed to adhere to the agreement, the plaintiff must retain the right to submit a new execution request. This safeguard is vital to prevent potential abuse by defendants who might exploit the withdrawal as an opportunity to evade compliance. Allowing the plaintiff to refile ensures accountability and upholds the authority of the judiciary in enforcing its decisions. It also addresses the risk of non-adherence, ensuring that agreements or reconciliations are honored and that justice for the plaintiff is effectively realized. Judicial systems should therefore ensure that withdrawal procedures are accompanied by mechanisms to monitor and enforce compliance where necessary.

³² Aloysius P. Llamzon, "Jurisdiction and Compliance in Recent Decisions of the International Court of Justice," *European Journal of International Law* 18, no. 5 (2007): 815–52.

9. *If Rehabilitation Can Be Implemented, Compensation for Dismissal Cannot Be Requested Until the Plaintiff is Rehabilitated*

Article 117 of the State Administrative Court Law states:

- (1) If the defendant is unable to fulfill the court's decision that has become final and binding due to changes in circumstances occurring after the ruling, they are obliged to notify the Chairperson of the Court and the plaintiff.
- (2) Within thirty days of receiving such notification, the plaintiff may request that the Chairperson of the Court impose the obligation on the defendant to pay a certain amount of money or other compensation.
- (3) After receiving this request, the Chairperson will summon both parties to negotiate a consensus on the amount of money or other compensation to be imposed on the defendant.
- (4) If an agreement cannot be reached, the Chairperson will issue a ruling, accompanied by adequate reasoning, determining the amount of money or compensation.
- (5) This ruling can be appealed by either party to the Supreme Court for re-evaluation.
- (6) The Supreme Court's ruling must be complied with by both parties.

The question arises: if the plaintiff has been reinstated to their original position or a comparable one, can they still request compensation for the loss of benefits suffered from the time of their dismissal until their rehabilitation? The answer is no, as compensation can only be awarded if rehabilitation cannot be executed or is not executed perfectly. However, the Plaintiff can submit a request for indemnity to the Defendant for the salary and allowances he has not received so far.³³

³³ Lisa Listyarini and Gandes Candra Kirana, "Tinjauan Yuridis Penyelesaian Sengketa Tata Usaha Negara Mengenai Penempatan Aparatur Sipil Negara Dalam Jabatan Fungsional (Studi Putusan Pengadilan Tata Usaha Negara Kupang Nomor 22/G/2019/PTUN-KPG)," *Reformasi Hukum Trisakti* 3, no. 1 (2021): 79–90.

The Case of the Dismissal of the Vice Rector of UIN Syarif Hidayatullah Jakarta

The dismissal of the Vice Rector of UIN Syarif Hidayatullah Jakarta (*the Plaintiff*) originated from a series of events involving allegations of abuse of authority and corruption. The sequence of events began on October 20, 2020, when the Plaintiff participated in a meeting with the Rector of UIN Syarif Hidayatullah Jakarta (the Defendant) and other Vice Rectors. During this meeting, the group discussed a letter from the Hajj Financial Management Agency, which raised concerns regarding a request for assistance in funding the construction of a dormitory at the university. The Rector confirmed the existence of a decree establishing the dormitory construction committee, which had received financial support from the Ministry of Youth and Sports, Bank Mandiri, and BAZNAS. Subsequently, on November 25, 2020, approximately 22 lecturers submitted a letter to the Minister of Religion, alleging abuse of authority, fraud, embezzlement, and/or corruption within the university. In response, the Ministry of Religion initiated an investigation through its Inspectorate General.³⁴

On November 30, 2020, an alumnus, Sultan Rivandi, in collaboration with the UIN Watch group, filed a police report at Polda Metro Jaya alleging forgery. In the report, the Plaintiff was named as a witness without his prior knowledge. This information was subsequently shared in a WhatsApp group that included the Rector, the Plaintiff, and other Vice Rectors, which further intensified the tensions within the university. In addition, 126 lecturers submitted a complaint and request for clarification to the Senate of UIN Syarif Hidayatullah regarding the allegations. As a result, the Senate convened meetings with the Plaintiff and requested that the Defendant establish an Ethical Council.

In January 2021, the Defendant issued two summons letters to the Plaintiff, requesting his cooperation in providing information. However, on February 19, 2021, the Plaintiff received Rector's Decree No. 168 of 2021, which formally dismissed him from his position as

³⁴ Ade Nizma Alawiyah, "Studi Kritis Terhadap Putusan Hakim Nomor 2752/Pdt. G/2021/PA. JS Jo 6/Pdt. G/2022/PTA. JK Tentang Pemberhentian Sepihak Manfaat Asuransi Oleh Perusahaan Asuransi", *Thesis*. (Jakarta: UIN Syarif Hidayatullah Jakarta, 2022).

Vice Rector for Cooperation at UIN Syarif Hidayatullah for the 2019-2023 term. In response, the Plaintiff filed a lawsuit with the State Administrative Court, seeking to annul the dismissal decree under decision number 31/G/2021/PTUN.SRG. The PTUN ruled in favor of the Plaintiff, declaring that the dismissal was invalid and contrary to applicable regulations. The Defendant subsequently appealed to the Jakarta High Administrative Court (Decision No. 252/B/2021/PT.TUN.JKT) and later sought cassation at the Supreme Court (Decision No. 231 K/TUN/2022). Despite pursuing a judicial review (Decision No. 33 PK/TUN/2023), the final ruling upheld the Plaintiff's position, affirming that the dismissal did not meet legal requirements. This case underscores the critical importance of transparency, accountability, and adherence to legal procedures in the dismissal of academic officials, highlighting the need to safeguard the rights of civil servants in academic institutions.³⁵

In its considerations, the panel of judges assessed that the core issue in the dispute was whether, despite ongoing internal problems at UIN Syarif Hidayatullah regarding a complaint from UIN Jakarta Watch, the Vice Rector (the Plaintiff) was indeed prohibited from being a witness in the report. They also questioned whether serving as a witness in that complaint was equivalent to opposing the leadership of UIN Syarif Hidayatullah (the Defendant) and whether the Plaintiff had violated employee discipline or the code of ethics as a Vice Rector by participating as a witness in the police report. Based on the legal considerations regarding procedural aspects, it was proven that the Defendant's actions in issuing the disputed decision were procedurally contrary to Government Regulation No. 53 of 2010 on Employee Discipline, specifically Article 23 paragraph (4). Furthermore, the substantive reasoning that the Plaintiff could no longer cooperate in carrying out official duties was not based on law or in accordance with the intent and purpose of Article 10 of Government Regulation No. 53 of 2010 in conjunction with Article 34 of the Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 17 of 2014 on the

³⁵ See also Afwan Faizin, and Ali Mansur. "Penerapan Undang-Undang Nomor 14 Tahun 2008 Tentang Keterbukaan Informasi Publik Di Perguruan Tinggi Keagamaan Islam Negeri (Studi Kasus UIN Syarif Hidayatullah Jakarta)." *Thesis* (Jakarta: UIN Syarif Hidayatullah Jakarta, 2018).

Statute of UIN Syarif Hidayatullah Jakarta. It was also evident that the Defendant's actions in issuing the disputed decision were contrary to the provisions of Article 10 of Government Regulation No. 53 of 2010 and the Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 17 of 2014 on the Statute of UIN Syarif Hidayatullah Jakarta. This was in line with the expert opinion of Dr. Ahmad, SH, MH, who stated that the dismissal of the Plaintiff and Professor Masri did not meet the criteria set forth in Article 34 letters a to i of the Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 17 of 2014.

Based on the legal considerations outlined above, the panel of judges issued the following ruling at the Serang State Administrative Court under Decision No. 31/G/2021/PTUN.SRG dated September 21, 2021: In Exception, the court declared the Defendant's exception inadmissible; In the Core of the Dispute, the court fully granted the Plaintiff's lawsuit, annulled the Rector of UIN Syarif Hidayatullah Jakarta's Decree No. 168 of 2021 regarding the Honorable Dismissal of Prof. Dr. Andi M. Faisal Bakti, MA from the position of Vice Rector for Cooperation at UIN Syarif Hidayatullah Jakarta for the 2019-2023 term, dated February 18, 2021; obligated the Defendant to revoke the Rector of UIN Syarif Hidayatullah Jakarta's Decree No. 168 of 2021 regarding the Honorable Dismissal of Prof. Dr. Andi M. Faisal Bakti, MA from the position of Vice Rector for Cooperation at UIN Syarif Hidayatullah Jakarta for the 2019-2023 term, dated February 18, 2021; obligated the Defendant to rehabilitate the good name and restore the position of Prof. Dr. Andi M. Faisal Bakti, MA as Vice Rector for Cooperation at UIN Syarif Hidayatullah Jakarta for the 2019-2023 term to its original state prior to dismissal; and ordered the Defendant to pay court costs amounting to Rp250,000.00 (two hundred fifty thousand Rupiah).

Subsequently, the Defendant appealed, and the ruling of the Jakarta High Administrative Court under Decision No. 252/B/2021/PT.TUN.JKT dated December 2, 2021, confirmed the decision of the Serang State Administrative Court. The High Administrative Court accepted the appeal request from the Appellant/Defendant, affirmed the Decision of the Serang State Administrative Court, and ordered the Appellant/Defendant to pay court costs at both levels of court, which for the appeal level was set at

Rp250,000.00 (two hundred fifty thousand Rupiah). Furthermore, the Defendant filed for cassation to the Supreme Court, which led to the ruling under Decision No. 231 K/TUN/2022 dated April 12, 2022, rejecting the cassation request from the Cassation Applicant, the Rector of UIN Syarif Hidayatullah Jakarta, and ordering the Applicant to pay court costs at the cassation level amounting to Rp500,000.00 (five hundred thousand Rupiah).

Unsatisfied with the cassation ruling, the Defendant ultimately requested a Judicial Review, resulting in the Supreme Court's ruling under Judicial Review No. 33 PK/TUN/2023 dated March 21, 2023, which rejected the request for judicial review from the Judicial Review Applicant, the Rector of UIN Syarif Hidayatullah Jakarta, and ordered the Applicant to pay court costs at the judicial review level amounting to Rp2,500,000.00 (two million five hundred thousand Rupiah).

A. The Amount of Compensation Determined

Following the Plaintiff's dismissal from the position of Vice Rector for Cooperation, which had been filled by another individual after the Plaintiff's term expired, the Plaintiff sought compensation amounting to Rp480,000,000.00. This sum was calculated based on the Vice Rector's monthly salary of Rp3,000,000.00 for a period of 24 months, totaling Rp72,000,000.00, in addition to a monthly remuneration allowance of Rp17,000,000.00 for the same period, totaling Rp408,000,000.00. The Defendant, the Rector of UIN Syarif Hidayatullah Jakarta, was only willing to offer compensation in accordance with Government Regulation No. 43 of 1991, which set the allowable range between Rp100,000.00 and Rp2,000,000.00. In the absence of an agreement between the parties, the Chairman of the Serang State Administrative Court issued a Determination, which set the compensation amount at Rp180,000,000.00, based on the Vice Rector's allowances and remuneration for a nine-month period.

Dissatisfied with this Determination, the Defendant filed an objection to the Supreme Court on July 18, 2024. The Supreme Court found that the compensation thresholds outlined in Government Regulation No. 43 of 1991 were no longer aligned with current legal and financial developments. As a result, the Court deemed it appropriate to calculate compensation based on the period from the

cessation of the Respondent's allowances and remuneration until the finalization of the ruling in the a quo case, which occurred on June 14, 2022. Accordingly, the Supreme Court determined the compensation amount for this period to be Rp320,000,000.00, with detailed breakdowns for the Vice Rector's allowances and remuneration.

However, as the Plaintiff had not objected to the compensation amount set by the Chairman of the Serang State Administrative Court, the Supreme Court upheld the originally agreed-upon compensation figure. Therefore, the Plaintiff's request for a re-determination of compensation was rejected. This case highlights the importance of procedural adherence in administrative law, particularly concerning the calculation and determination of compensation for dismissed academic officials.

B. Follow-Up on the Supreme Court's Re-determination

In accordance with Minister of Finance Regulation No. 80/PMK.01/2015, which governs the implementation of legal decisions, procedures have been established for the payment of claims to beneficiaries. This regulation applies to parties who have won cases and have the right to submit claims to the State based on final and binding legal decisions. It further stipulates that the Beneficiary of Claims may apply to the Minister of Finance for the implementation of such decisions.³⁶

³⁶ *Peraturan Menteri Keuangan Nomor 80/PMK.01/2015* (Minister of Finance Regulation No. 80/PMK.01/2015) is a crucial regulation issued by the Indonesian Ministry of Finance in 2015, aimed at establishing procedures for the implementation of legal decisions involving financial compensation or claims against the state. The regulation specifically targets the payment process for beneficiaries of claims, who are individuals or entities that have won a legal case and are entitled to receive compensation from the government based on final and binding judicial decisions. Once a legal decision is made, the beneficiaries may apply to the Ministry of Finance to initiate the payment process. This regulation outlines the exact procedures that must be followed by the government agencies responsible for executing these payments, ensuring transparency and efficiency in the disbursement of funds. One of the key features of this regulation is that it addresses situations where the compensation or payment cannot be executed within the same fiscal year. In such cases, the payment is carried over to the subsequent fiscal year, ensuring that the beneficiaries are not left without compensation. Additionally, the regulation emphasizes accountability, stating that

As a follow-up to the Supreme Court's re-determination concerning the amount of compensation to be paid to the beneficiary of claims, the Plaintiff/Applicant must adhere to the procedures outlined in Minister of Finance Regulation No. 80/PMK.01/2015 to initiate execution of the decision, which is to be carried out by the Minister of Finance.

In line with Article 16 of Government Regulation No. 43 of 1991, if the payment of compensation cannot be executed by the State Administrative Agency within the current fiscal year, the payment shall be deferred to the subsequent fiscal year for execution.

Furthermore, if a decision from the State Administrative Court imposing compensation on the State Administrative Agency is determined to be detrimental to the state, Article 17 of Government Regulation No. 43 of 1991 provides that this does not preclude the state from imposing administrative sanctions on the State Administrative Officials responsible for the losses, in accordance with relevant laws and regulations. This provision ensures that accountability measures are maintained even when compensation payments are made to individuals or entities.

Conclusion

In conclusion, compensation plays an important role in employment disputes where rehabilitation is not possible, ensuring justice for the Plaintiff. It can take various forms, such as monetary payments or other compensatory measures, with the amount determined either by mutual agreement or judicial ruling. When disagreements persist, the Supreme Court's re-determination becomes the final and binding resolution, typically grounded in legal principles, including the entitlement to unpaid salaries and allowances from the

if a legal decision imposes a financial burden on the state, the government can take action against any public officials responsible for the loss or delay in payment. This provision holds officials accountable for their role in the process and maintains the integrity of government financial operations. Ultimately, this regulation helps to ensure that the legal rights of individuals and entities are upheld, and that the state fulfills its financial obligations as directed by the courts. *See* Republic of Indonesia, *Peraturan Menteri Keuangan Nomor 80/PMK.01/2015 Tahun 2015 tentang Pelaksanaan Putusan Hukum*. Available online at <https://peraturan.bpk.go.id/Details/114888/pmk-no-80pmk012015>

date of dismissal until the decision becomes final. However, despite the presence of these guiding legal principles, compensation amounts do not always reflect substantive justice due to procedural limitations. This was evident in the case where, despite the Supreme Court's acknowledgment of a just compensation amount of Rp320,000,000.00, it upheld the lower Rp180,000,000.00 set by the State Administrative Court, due to the lack of objections from the Plaintiff. This demonstrates the tension between procedural requirements and achieving substantive fairness. To mitigate such issues, State Administrative Officials must exercise greater caution in employment terminations, ensuring legal compliance to avoid future litigation. Plaintiffs dissatisfied with compensation should promptly raise objections to the Supreme Court to secure a more equitable outcome. Furthermore, adherence to enforcement procedures, such as those outlined in Minister of Finance Regulation No. 80/PMK.01/2015, is essential for ensuring the timely realization of compensation payments. The Ministry of Finance plays a crucial role in executing Supreme Court re-determinations, ensuring that compensation is paid in full, thereby fulfilling justice for Plaintiffs while preserving legal integrity. Ultimately, these measures aim to strike a balance between fairness, procedural adherence, and the protection of state resources.

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*Justice consists not in being
neutral between right and
wrong, but finding out the right
and upholding it, wherever
found, against the wrong.*

Theodore Roosevelt

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