

The Executorial Role of the Administrative Court in Controlling Abuse and Restoring Trust

Peran Eksekutorial PTUN dalam Mengendalikan Penyalahgunaan Wewenang dan Memulihkan Kepercayaan Publik

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Abstract

This article examines the role of the Administrative Court (PTUN) in judicial control over abuse of power (*abusus potestatis*) by administrative officials and its contribution to restoring public trust. Guided by Montesquieu's separation of powers and A.V. Dicey's rule of law, PTUN acts as a mechanism to correct administrative excesses. However, abuse of power remains prevalent in Indonesia. The PTUN's execution mechanism, including *dwangsom* (coercive fines), is vital in



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enforcing rulings. Despite the legal framework under Undang-Undang Nomor 5 Tahun 1986 dan Undang-Undang Nomor 51 Tahun 2009 PTUN faces challenges in enforcement due to resistance from officials and inadequate measures. This article explores how PTUN can improve its role by strengthening its execution mechanisms and institutional support. Using normative legal research, the study analyzes relevant laws and jurisprudence to evaluate the effectiveness of PTUN's execution process and propose reforms to enhance its ability to protect citizens' rights and restore public trust.

KEYWORDS: *Administrative Court, Abuse of Power, Coercive Fines, Restoration of Public Trust*

Artikel ini mengkaji peran Pengadilan Tata Usaha Negara (PTUN) dalam pengawasan yudisial atas penyalahgunaan wewenang (abusus potestatis) oleh pejabat administrasi dan kontribusinya dalam memulihkan kepercayaan publik. Berlandaskan pada prinsip pemisahan kekuasaan Montesquieu dan konsep rule of law menurut A.V. Dicey, PTUN berfungsi sebagai mekanisme untuk mengoreksi kelebihan kekuasaan administrasi. Namun, penyalahgunaan wewenang masih marak terjadi di Indonesia. Mekanisme eksekusi PTUN, termasuk dwangsom (denda paksa), sangat penting dalam penegakan putusan. Meskipun terdapat kerangka hukum berdasarkan Undang-Undang Nomor 5 Tahun 1986 dan Undang-Undang Nomor 51 Tahun 2009, PTUN menghadapi tantangan dalam pelaksanaan putusan akibat perlawanan dari pejabat dan kurangnya langkah-langkah yang memadai. Artikel ini mengeksplorasi bagaimana PTUN dapat meningkatkan perannya dengan memperkuat mekanisme eksekusi dan dukungan kelembagaan. Dengan menggunakan metode penelitian hukum normatif, studi ini menganalisis peraturan perundang-undangan dan yurisprudensi terkait untuk mengevaluasi efektivitas proses eksekusi PTUN serta mengusulkan reformasi guna meningkatkan kemampuan PTUN dalam melindungi hak-hak warga dan memulihkan kepercayaan publik.

KATA KUNCI: *Pengadilan Tata Usaha Negara, Penyalahgunaan Wewenang, Denda Paksa, Pemulihan Kepercayaan Publik*

Introduction

According to classical theories of power, every authority vested in public officials inherently carries the potential for deviation. Administrative power, while essential as an instrument for regulating and realizing public services and development, often transforms into a tool of domination, thereby creating opportunities for abuse of authority (*abusus potestatis*) (Zeng, 2024). Montesquieu's thought in *The Spirit of Laws* affirms that power must be checked by another power (*le pouvoir arrête le pouvoir*) to prevent abuse. In modern constitutional systems, this principle is embodied in the concept of the separation of powers, wherein the judiciary plays a critical role in supervising and correcting the excesses of executive authority, including within the realm of administrative governance. A.V. Dicey, in his doctrine of the rule of law, asserts that one of the fundamental pillars of a legal state is the supremacy of law over all governmental actions.¹ No individual, including public officials, is above the law. All administrative acts must conform to legal norms, and any violation thereof must be subject to correction through effective legal mechanisms. In this context, the existence of administrative courts such as the Administrative Court (Peradilan Tata Usaha Negara, PTUN) in Indonesia constitutes a concrete manifestation of judicial control over administrative authority. (Ilyas, 2023).

However, in practice, the abuse of authority (*abusus potestatis*) remains a recurring phenomenon, particularly when officials are granted broad discretionary powers without adequate oversight. Numerous administrative decisions are not driven by objective assessments or public interest, but rather by personal agendas, collusion, or even bribery. This aligns with Lord Acton's theory of absolute power, which posits that "power

¹ Chayani, D. (2023). JUSTICES : Journal of Law Eksistensi Peradilan Tata Usaha Negara Dalam Menyelesaikan Sengketa. 2(2), 105–112.

tends to corrupt, and absolute power corrupts absolutely,” alongside the adage that “power, by its nature, invites abuse.” This theory is reinforced within the doctrine of public administration, which holds that any discretionary power unaccompanied by strong mechanisms of control and accountability is highly susceptible to maladministration and bureaucratic misconduct (Munir et al., 2021). This phenomenon is no longer merely a potential risk but has become an empirical reality deeply rooted in the constitutional and administrative practices of Indonesia. Cases such as the issuance of mining permits without adequate environmental assessments, the approval of factory construction in disaster-prone zones, and instances of bribery in business licensing processes illustrate this concern.²

In many instances, administrative decisions that appear “legal” on the surface are in fact marred by moral and legal flaws, producing long-term adverse consequences for the public. For example, when officials grant permits to hazardous waste (B3) management companies without strict regulatory oversight, the result can be severe environmental pollution, public health crises, and irreversible ecological damage (Azizah, 2022). The consequences of such actions not only violate the fundamental principles of administrative law but also result in systemic harm to society. Amid the prevalence of maladministration and bureaucratic misconduct, citizens often find themselves in a vulnerable position—where their rights are violated, yet they lack direct access to mechanisms that could rectify the decisions made by administrative authorities. This underscores the urgent need for an effective system of control over administrative power. The situation demands the establishment of robust oversight and corrective mechanisms to address deviations in administrative authority. Within the framework of Indonesia’s positive law, the Administrative Court (Peradilan Tata Usaha Negara, PTUN) functions as an

² Azizah, F. N. (2022). Konsep Penyalahgunaan Wewenang Dalam Penerbitan Izin Usaha Pertambangan (IUP) Sebagai Tindak Pidana Korupsi. *Adalah*, 6(4), 31–44. <https://doi.org/10.15408/adalah.v6i4.26808>

embodiment of judicial control, serving to balance and rectify the actions of public officials.

PTUN not only resolves disputes over state administrative decisions but also plays a vital role in assessing the legality of administrative acts that infringe upon citizens' rights (Lianti et al., 2023). One of the key instruments in this regard is the executorial enforcement of PTUN decisions, which aims to ensure that legal remedies are effectively realized and do not merely remain at a declaratory stage. The executorial mechanism of the Administrative Court can serve as a means to uphold the principle of checks and balances within a state governed by the rule of law (Alfaridzi et al., 2023). Through the implementation of decisions with condemnatoir or constitutive effect, the Administrative Court (PTUN) can compel administrative officials to take specific actions or annul decisions that are contrary to the law.³ For instance, in cases where a business license is issued through bribery and the permit demonstrably harms the public interest by causing environmental degradation, PTUN serves as a legal channel to review, revoke the license, and restore the rights of affected citizens. In this process, the role of PTUN extends beyond merely resolving disputes—it also acts as a guardian of public accountability (Zhang, 2018).

This is normatively regulated under Law No. 5 of 1986 in conjunction with Law No. 51 of 2009, and further reinforced by various Supreme Court jurisprudence, which affirms that officials who fail to implement PTUN rulings may be subject to administrative or even criminal sanctions. Through this executorial mechanism, PTUN transforms into an active watchdog rather than a passive referee. It does not merely serve as an adjudicator, but also as a protector of citizens' rights against arbitrary actions by state officials (RAHMADINATA, 2022).

Normatively, the effectiveness of PTUN's execution of rulings is expected to bring significant structural and social

³ Elsy, Rosemary, and Muslim Muslim. Modul Mata Kuliah Hukum Tata Usaha Negara, 2020.

impacts. First, from a legal system perspective, a robust executorial mechanism will reinforce the principle of the rule of law, placing the law above administrative power and strengthening the position of society as equal legal subjects before the state. Second, from a socio-political dimension, the success of executing administrative court rulings also carries a restorative function, which aims to restore public trust (*rehabilitatio fiduciae public*) in government institutions and bureaucratic officials. In this ideal, PTUN is not only positioned as an administrative dispute resolution institution but also as the frontline guardian of state power integrity. By ensuring that administrative officials comply with court rulings, PTUN contributes to the formation of a bureaucratic culture that is accountable, transparent, and anti-impunity. The existence of an effective executorial mechanism also sends a strong signal that acts of abuse of power will not be left without legal consequences. However, this expectation has not yet fully materialized in practice. Several legally binding PTUN rulings still face obstacles in their implementation. The reluctance of officials to implement rulings, the weakness of legal enforcement mechanisms against public officials, and the lack of political will from oversight institutions remain challenges that prevent PTUN's corrective function from operating optimally. (Zeng, 2024).

Based on the background of these issues, the author is interested in analyzing the strategic role of the PTUN's execution mechanism as an instrument of judicial control against the abuse of power (*abusus potestatis*) by administrative officials, and how this executorial function can be strengthened to restore public trust (*rehabilitatio fiduciae public*) in state authority. This study is relevant given the continued weakness in the enforcement of PTUN rulings in practice, which prevents the administrative court's function as a power oversight body from operating optimally.⁴ By exploring

⁴ Harahap, Syahnan. "Perbedaan Konsepsi Rechtstaat Dan the Rule of Law Serta Perkembangan Dan Pengaruhnya Terhadap Hukum Administrasi Negara." *Jurnal Ilmiah Hukum Dirgantara* 5, no. 1 (2014): 48–54.

theoretical, normative, and empirical aspects related to the execution of PTUN rulings, including structural obstacles and regulatory weaknesses, the author seeks to highlight the urgency of reforming the execution mechanism in Indonesia's administrative courts. Conceptually, this article will examine the relationship between the principles of the rule of law, separation of powers, and the effectiveness of the execution mechanism as a bridge between normative justice and substantive justice. Practically, this paper will analyze how PTUN can carry out its corrective role against deviant administrative power and evaluate the effectiveness of sanctions and enforcement instruments available to implement court rulings.

Method

This research uses a normative legal research method, which focuses on the study of legal documents or materials as the primary basis for analysis. Normative legal research is employed to examine the applicable legal norms, legal principles, and relevant doctrines to understand and explain the legal issues under investigation (Marzuki, 2019). In this study, two main approaches are used: the conceptual approach and the statute approach. The conceptual approach is employed by examining foundational theories in administrative law and constitutional law, such as the concepts of *abusus potestatis*, judicial control, rule of law, and separation of powers, which serve as the theoretical basis for analyzing the urgency and effectiveness of the execution mechanism in the administrative court system. Meanwhile, the statute approach is used to analyze the normative provisions related to the authority of the Administrative Court in executing its decisions, including Law No. 5/1986 on the Administrative Court as amended by Law No. 51/2009, Law No. 30/2014 on Government Administration, as well as implementing regulations and relevant jurisprudence.

A descriptive-analytical method is employed to systematically and comprehensively explain and analyze the legal norms, thereby providing a thorough understanding of the issue of executing Administrative Court rulings in the context of overseeing the abuse of authority by administrative officials.

(Soekanto, 2019). This normative analysis is also supplemented with a limited empirical study as supporting material to highlight the dynamics of executing PTUN rulings in practice. This study refers to various relevant real-life cases, such as the issuance of business permits that result in environmental or social harm, as well as the implementation challenges in executing final and binding PTUN decisions. The data is obtained through a literature study from court rulings, reports from supervisory agencies, as well as credible scholarly articles and media reports.

The data collection technique is conducted through library research, by gathering and examining primary legal materials such as legislation, as well as secondary legal materials including books, scholarly journals, articles, and relevant jurisprudential documents related to the topic. This approach is expected to provide a comprehensive understanding of how the execution mechanism in the PTUN system should function as an effective judicial control tool, and to formulate recommendations for regulatory and institutional strengthening to achieve citizen rights protection and restore public trust in state institutions.⁵

Result & Discussion

A. Challenges of Justice and Legal Certainty in the Implementation Of The Fast-Procedure Examination

Indonesia adheres to the concept of a state of law based on Pancasila, considering that Pancasila is the *grundnorm* or basic norm of Indonesia and the *staatsfundamentalnorm* or fundamental rules of the state written in the preamble of the 1945 Constitution. The concept of Pancasila rule of law applied in Indonesia has

⁵ Herlambang, Pratama Herry. Pengantar Hukum Acara Peradilan Tata Usaha Negara. Rajawali Pers, 2024.

special characteristics given the state of Indonesian society itself. As Indonesia upholds kinship where it recognises individual rights and human rights, but also still prioritises the public interest over individual interests, which is expected to bring about balance. The second characteristic is Indonesia as a country that upholds the principles of justice and legal certainty combined with other legal systems such as customary law systems and religions that live in Indonesian society. The third characteristic is as a religious nation state, so that the concept of Pancasila legal state adheres to the concept of Godhead where citizens and communities are given the freedom to choose religion. The fourth characteristic is the existence of legal collaboration as a reflection of Indonesia's diverse society. The last characteristic is the basis of legal formation that holds the principle of law with a universal and neutral nature so that it must meet the main requirements, namely Pancasila which is a unifier and adhesive, based on values that can be accepted by every group and group of society and does not privilege one of them, prioritise tolerance and mutual cooperation, and unite the same goals, vision and mission, and orientation with mutual trust.

Justice in Pancasila is not only seen as a legal norm, but also as a moral value that underlies every legal action and aspect of life. This value derives from the second principle, "Kemanusiaan yang Adil dan Beradab", and the fifth principle, "Keadilan Sosial bagi Seluruh Rakyat Indonesia". This principle emphasises the importance of fair treatment of every individual regardless of social, economic, cultural or religious status. The fifth precept of Pancasila emphasises that social justice is the ultimate goal of the Indonesian nation. Social justice includes equitable distribution of resources, equal access to economic and political opportunities, and protection of

basic human rights. In this case, justice not only means giving rights to individuals in accordance with the rule of law, but also ensuring a balance between individual rights and the interests of the wider community.⁶ In the legal context, Pancasila justice becomes the main foundation for the formation of laws and regulations and the fair application of law. The legal system in Indonesia should reflect the values of Pancasila by ensuring that rules are applied consistently and indiscriminately. Social justice demands that every individual gets their rights proportionally without discrimination, including in the context of administrative dispute resolution between citizens and the government. Justice based on Pancasila in a speedy trial at the Administrative Court reflects an attempt to balance between the interests of the law and the needs of the community for quick and fair dispute resolution.

Justice and legal certainty must go hand in hand to create an effective legal system. Both complement each other, legal certainty provides structure and guidance for the enforcement of justice, while justice ensures that legal certainty is not applied in a discriminatory manner. In the context of Pancasila, this synergy is expected to create a prosperous and harmonious society. Legal certainty as the last basic value of law but also important to achieve justice and expediency. The law must guarantee legal certainty so that it can be known what to do and not to do so that it can also provide certainty of government action. Legal certainty refers to the implementation of laws that are clear and consistent and cannot be influenced by subjective circumstances. Legal certainty in

⁶ Mahdi, Harsya, Yohanes G. Tuba Helan, and Dhey W. Tadeus. "Redesain Penyelesaian Sengketa Pemilihan Kepala Desa Di Peradilan Tata Usaha Negara" 6, no. 6 (2023): 247–78.

Administrative Court is carried out with clear arrangements and provides guidelines for handling disputes. With clear rules, the public can understand their rights and obligations and the legal process that must be followed, and does not cause inconsistencies in the implementation of case settlement.

The implementation of a speedy trial begins with the filing of a lawsuit as in the implementation of an ordinary trial, but based on Article 98 Paragraph (1) of Law 5/1986, the reasons for requesting a speedy trial must be contained in a lawsuit that describes in writing and clearly the request and the reasons for it. After the lawsuit is received at the court registry, the registry will conduct administrative research using the same steps as an ordinary examination. The party filing a state administrative lawsuit or referred to as the plaintiff can receive a case number no later than 30 days after the lawsuit is registered. From the registry, the lawsuit will be submitted to the President of the Court to conduct a deliberation meeting to determine whether the lawsuit is accepted or not. If the lawsuit is not accepted, the plaintiff can file a counter lawsuit which is carried out with a brief procedural examination. If the lawsuit is accepted, the President of the Court must issue a decision on whether or not the request for a speedy trial is granted. If the request is not granted, then the examination will continue with the ordinary procedure. There is no other legal recourse if the request for a speedy trial is not granted.

A request for a speedy trial may be granted if the plaintiff's interest is considered urgent. What is meant by urgency in the Explanation of Article 98 paragraph (1) of Law 5/1986 is if the interest involves a state administrative decision, for example an order to demolish a building or house occupied by the plaintiff. There is no specific indicator that regulates the urgency that is a

requirement for the implementation of a speedy trial, so the consideration of whether or not to grant a request for the implementation of a speedy trial is purely based on the discretion of the President of the Court. The absence of this indicator can lead to vagueness that creates different interpretations and legal uncertainty. This can then lead to inconsistencies in the determination of cases that must be prioritised and can potentially cause harm to one of the parties in a case as well as creating inefficiencies in the justice system. The unclear meaning of urgency is a serious challenge in the implementation of speedy trial, because it is the key to whether or not a case is resolved in an accelerated manner. A clearer explanation of the meaning of the word urgent is needed as a form of seriousness in guaranteeing the implementation of justice and legal certainty based on Pancasila. Not only that, a detailed explanation of the meaning of urgency can improve the quality of service by reducing doubts so that they become much less and reducing inconsistencies in practice because there is a clear reference.

If the request for an expedited procedural examination is granted, then the dispute resolution process is carried out with an expedited procedural procedure, which is carried out with a single judge, without going through the preparatory examination stage, a shorter time limit for providing answers and evidence for each party, which is a maximum of 14 days, and the determination of the first hearing by the President of the Court is a maximum of seven days after the request is granted. When compared to the examination of ordinary procedures, of course, the examination of speedy procedures is carried out in a concise manner. There are not many decisions that decide state administrative disputes using a speedy trial, partly due to inconsistencies

in the meaning of urgency.⁷

Cases that have been decided using the speedy procedure can be appealed to the High Administrative Court. The total time required to conduct an appeal in the settlement of a state administrative case is 104 working days. This timeframe and process applies to appeals of first instance court decisions examined either by ordinary or expedited procedures. The appeal decision of the High Administrative Court can also be appealed to the Supreme Court, which takes approximately 139 working days to complete the process, whether the first instance court uses ordinary or speedy procedures. There is no regulation stating that the implementation of speedy procedure examination can also be carried out at the appeal and cassation levels, so this has the potential to cause injustice to plaintiffs who need fast time because of urgency. It is necessary to improve the efficiency of the implementation of case settlement at the appeal and cassation levels as a form of further legal remedy after the first level in order to fulfil the public's right to justice.

B. Strategic Role of the PTUN Execution Mechanism as a Judicial Control Instrument

Judicial control is a mechanism of oversight by the judiciary over actions or decisions made by administrative officials or bodies. It ensures that administrative powers are exercised within the boundaries of the law, preventing abuse of authority and safeguarding the rights of citizens. Through judicial control, the judiciary plays a crucial role in ensuring that administrative decisions adhere to legal principles and standards, maintaining accountability

⁷ Kelsen, Hans. *General Theory of Law and State*. Cambridge: Harvard University Press, 1945.

within the public administration system. (Alfaridzi et al., 2023).⁸ In the context of a rule of law (*rechtstaat*), judicial control is at the heart of the principle of the supremacy of law, where all powers, including administrative powers, must be subordinate to the law and subject to judicial review. This aligns with the checks and balances principle in Montesquieu's theory of *trias politica*, which stresses the importance of limiting power to prevent abuse (*abusus potestatis*). Judicial control over administrative actions is crucial for maintaining accountability, transparency, and legality in government operations, ensuring that the exercise of power is lawful and just. (Zhang, 2018). In Indonesia, this role is carried out by the Administrative Court (Peradilan Tata Usaha Negara, PTUN), established under Law No. 5 of 1986 on the Administrative Court, which was later amended by Law No. 9 of 2004 and, most recently, Law No. 51 of 2009.

Additionally, Law No. 30 of 2014 on Administrative Governance (UUAP) is a significant milestone in Indonesia's administrative law system, particularly in strengthening the principles of good governance and expanding the scope of judicial control by the Administrative Court (PTUN). One of the key updates introduced is the delegation of new authority to PTUN to review the abuse of power in decisions or actions taken by government officials. This grant of authority reinforces the strategic role of PTUN in exercising judicial control over the implementation of administrative power, directly influencing the effectiveness of its execution mechanism as an instrument to ensure the supremacy of the law (Herlambang, Pratama Herry, 2020).

Amid the practice of administrative power, which is rife with the potential for abuse, the role of the Administrative Court (PTUN) becomes crucial as a mechanism for correcting abuse of power (*abusus*

⁸ Hadjon, Philipus M. *Legal Protection for the People in Indonesia*. Surabaya: Bina Ilmu, 1987.

potestatis). When the court cancels an administrative decision (KTUN) for violating legal principles, the court not only provides justice for the harmed individual but also sends a message to state officials that administrative power is not without limits. However, the success of judicial control is not solely achieved through the annulment of administrative decisions. It requires the effectiveness of post-judicial remedies, which concern how the ruling is actually enforced by the losing party. This is where the execution mechanism plays a pivotal role.(Lianti et al., 2023).

The Administrative Court (PTUN) holds the crucial function of reviewing and assessing the legitimacy of administrative actions, including ensuring that public officials do not engage in the abuse of power that could harm the public and the state. Abuse of power, in this context, refers to the use of administrative authority beyond its legitimate bounds or for purposes that do not align with the public interest. Therefore, PTUN plays a significant role in ensuring that all administrative actions occur within the framework of law and accountability.

In this regard, Law No. 30 of 2014 on Administrative Governance becomes a pivotal piece in providing legal definitions and operational limits to the abuse of power. This law stipulates that before abuse of power is addressed in the criminal realm, it must first be proven through administrative mechanisms, including through PTUN rulings. Abuse of power is a severe form of administrative deviation because it has the potential to undermine the integrity of public service systems, create injustice, and result in harm to the state or society. Hence, PTUN's ability to examine and rule on abuses of power through judicial processes is a crucial pillar in maintaining control over administrative power(Alfaridzi et al., 2023). The attribution of authority to the Administrative Court (PTUN) to review abuse of power through Article 21 of the Administrative Governance Law (UUAP) and the technical regulations stipulated in PERMA No. 4 of 2015 represents a concrete response to the legal need for a judicial forum

capable of assessing the legality of administrative actions, particularly in the context of preventing the criminalization of public policy.⁹

This authority not only expands the absolute competence of the Administrative Court (PTUN), but also affirms its role as a constitutional guardian in the realm of public administration. The granting of authority to PTUN to review abuse of power through Article 21 of the Administrative Governance Law (UUAP) and the technical provisions outlined in PERMA No. 4 of 2015 responds to the legal need for a judicial forum capable of assessing the legality of administrative actions that may harm the public. Article 21 of the UUAP grants PTUN the authority to examine administrative actions that contravene the law, while PERMA No. 4 of 2015 establishes the procedural framework for such reviews. Paragraph 21(1) of the UUAP stipulates that allegations of abuse of power by officials may be subject to judicial review by PTUN.

This authority broadens PTUN's competence, positioning it as a supervisory body that not only examines the formal legality of administrative decisions but also the substance of administrative actions that may cause harm to others. The implementation of this authority underscores PTUN's role as a constitutional guardian in the field of public administration (Chayani, 2023). This becomes crucial in preventing the criminalization of policies, where the actions of officials are pulled into the criminal realm even though they acted within their discretionary powers to resolve concrete issues. Without prior administrative judicial control, there is a risk that differences in the interpretation of authority could be construed as unlawful acts in the criminal sense, leading to fear and stagnation in public policy decision-making. For the judicial control function of PTUN to be effective, it is not enough merely to review and issue

⁹ Chayani, D. (2023). JUSTICES : Journal of Law Eksistensi Peradilan Tata Usaha Negara Dalam Menyelesaikan Sengketa. 2(2), 105–112.

decisions.

Theoretically, a court ruling must have binding force and executory power to avoid being merely a declaratory decision. Within the framework of PTUN procedural law, Articles 115 and 116 of Law No. 5 of 1986 stipulate that if a PTUN decision has permanent legal force and the relevant official does not implement the ruling, the court may request the superior of the official or the President to enforce the ruling. The problem, however, lies in the fact that this mechanism is administrative in nature and lacks direct enforcement power over the official in question. In practice, many PTUN rulings, even when they have permanent legal force, are not executed because administrative officials refuse or neglect their legal obligations. This gap between normative power and practical realization weakens PTUN's corrective function.

The absence of an institution or mechanism such as a bailiff (state enforcer) in the administrative realm, unlike in civil courts, means that PTUN does not have direct coercive tools to enforce its decisions. Consequently, many victims of abuse of power do not receive tangible redress, even when the legal ruling is in their favor. Therefore, strengthening regulations or revising the PTUN Law should be considered, so that criminal or administrative sanctions against officials who disregard decisions are not merely normative but can be applied decisively and consistently. Political will must also be developed systematically, through mechanisms of democratic oversight, strengthening institutions like the Ombudsman and Judicial Commission, and through public and civil society pressure. With comprehensive reform of the PTUN decision enforcement system, the administrative court can fulfill its strategic role as a controller of administrative power and, at the same time, a guardian of public trust in the rule of law.

C. The Authority of the Administrative Court in Testing Abuse of Power

The role of government officials in managing the administration of state affairs must always be based on the principles of legality, proportionality, and accountability. Within the framework of the rule of law, every action and administrative decision taken must align with applicable regulations. However, in practice, the dynamics of governance often confront officials with urgent conditions or concrete situations that are not explicitly regulated by positive law, prompting officials to exercise discretion or free judgment (*freies ermesen*) in making decisions. This phenomenon reveals a "grey area" in state administration, where there are no adequate legal provisions to serve as guidelines. In this context, the use of authority without a clear legal framework often leads to accusations of abuse of power or even the criminalization of policy. In fact, such policies are made for the public interest in urgent situations.

Abuse of power itself is a central concept in administrative law, yet it is often misunderstood. This concept does not merely mean a violation of formal law, but rather refers to the use of authority that deviates from the purpose for which that authority was granted. In administrative law doctrine, *detournement de pouvoir* refers to the abuse of authority for purposes that are not in accordance with or deviate from the intended purpose of granting that authority, as outlined by the principle of *specialiteitsbeginsel*. Law No. 30 of 2014 on Government Administration (UUAP) does not explicitly define the term "abuse of power," but categorizes its forms through Article 17. In this provision, abuse of power is classified into three main forms: actions exceeding authority, mixing of authority, and arbitrary actions. These three forms serve as important indicators in assessing whether a government official's actions have exceeded the boundaries set by administrative law. Furthermore, Article 19 of the UUAP emphasizes that administrative actions

involving abuse of power can result in legal consequences, such as annulment or a declaration of invalidity by a competent court, after a judicial review process.

To ensure accountability and provide legal protection for officials accused of abuse of power, Article 21 of the UUAP, in conjunction with Supreme Court Regulation (PERMA) No. 4 of 2015, provides a mechanism for judicial review by the Administrative Court (PTUN). This mechanism can only be carried out after oversight from the Government Internal Supervisory Apparatus (APIP) and before the initiation of criminal proceedings. The aim is to avoid the potential criminalization of policy, which often arises from an overly broad interpretation of the concept of abuse of power in criminal law enforcement.¹⁰

The absolute authority of the Administrative Court (PTUN) in reviewing elements of abuse of power is the embodiment of the principle of legality in administrative law. (Mujiburohman, 2022). Materially, abuse of power is an intrinsic concept in administrative law closely related to the general principles of good governance (AUPB), and therefore can only be interpreted and examined through an administrative approach. From a functional perspective, the Administrative Court (PTUN) is exclusively the judicial forum granted authority by law to assess the legality of administrative actions and to ensure that every action by public officials does not deviate from the purpose for which the authority was granted, as outlined in the regulations. Consequently, PTUN serves as the initial, objective, and neutral instrument in verifying allegations of abuse of power before such issues are transferred to the criminal justice

¹⁰ A, Benny B. "Pemeriksaan Dengan Acara Cepat." PTUN Samarinda, 2023. <https://ptun-samarinda.go.id/layanan-hukum/alur-proses-perkara/acara-cepat>.

system. This is crucial to guarantee legal protection for officials acting within the framework of public policy, while also preventing the criminalization of administrative actions that are, in fact, part of the discretionary decision-making process.

Although PTUN has been granted significant authority to review and adjudicate the legality of administrative actions, a classic problem that continues to persist is the weak effectiveness of enforcing (executing) its decisions. Since the establishment of PTUN through Law No. 5 of 1986, compliance with PTUN rulings by public administration officials has often been low. This creates a serious gap in the enforcement of the rule of law principle and diminishes the authority of administrative law in government administration. One of the main issues is the lack of a strong executory mechanism within PTUN (Lianti et al., 2023). Unlike civil or criminal courts, which have bailiffs as enforcers of court decisions, the Administrative Court (PTUN) is not equipped with a similar structure, making the execution of its rulings more voluntary and dependent on the good faith of the officials being ordered. The absence of strict sanctions for officials who fail to implement the court's decisions further weakens PTUN's position as the guardian of administrative justice (Alfaridzi et al., 2023).¹¹ Moreover, although the Administrative Court Law has accommodated the use of coercive fines (*dwangsom*), in practice, judges often hesitate to include such provisions due to the lack of detailed technical guidelines regarding the implementation mechanisms, including the amount, budget sources, and collection procedures.

¹¹ Lianti, L., Shanty, F. E., & Astuti, W. P. (2023). Peran Ptun Dalam Eksekusi Putusan Yang Berkekuatan Penyelesaian Sengketa Tun. *Yustisi: Jurnal Hukum Dan Hukum Islam*, 10(2), 76–86.

Obstacles also arise in the context of decentralized governance. When the object of a PTUN ruling involves regional officials such as regents or mayors, hierarchical issues often arise that hinder implementation, as these officials are not directly under the control of higher-level authorities such as governors or ministers. The fragmentation of authority, local political dynamics, and resistance to external influences make the execution of court decisions even more challenging at the regional level. Theoretically, these execution obstacles can be explained through Lawrence M. Friedman's framework, which highlights legal culture and legal structure as two critical elements in the functioning of a legal system. In the context of Indonesia, weak legal culture, low respect for court rulings, and the persistence of nepotism remain significant barriers. On the other hand, the lack of synchronization between the executive and judicial institutions worsens coordination during the execution phase. Furthermore, the existence of floating or ambiguous norms—norms that fail to provide legal certainty and allow for broad interpretation—are often exploited by administrative officials to delay or even avoid fulfilling legal obligations established by court decisions.

To build a democratic and rule-of-law-based government system (*rechtstaat*), the existence of the Administrative Court (PTUN) needs to be strengthened both functionally and structurally (Lianti et al., 2023). These strengthening measures can be implemented through the establishment of a specialized execution body or unit within the Administrative Court (PTUN) to ensure the effective and accountable enforcement of court decisions. Additionally, administrative and criminal sanctions should be formulated for officials who deliberately neglect or fail to implement court rulings. For effectiveness, PTUN judges should also be granted broader discretionary authority in imposing coercive fines

(dwangsom), supported by clear and applicable technical regulations. On the other hand, the capacity of the Government Internal Supervisory Apparatus (APIP) must be enhanced, including the clarification of the standards for supervision results that serve as the basis for filing requests for the test of elements of abuse of power to PTUN. If all these instruments can be optimally empowered, PTUN can play a maximum role as a guardian of administrative law supremacy and an effective judicial control mechanism against practices of abuse of power by government officials.¹²

Conclusion

Strengthening the judicial authority of the Administrative Court (PTUN) is essential to effectively control abuse of power (*abusus potestatis*) by administrative officials and to restore public trust (*rehabilitatio fiduciae publik*) in the government. A key instrument that must be consistently enforced is the coercive fine (*dwangsom*), as regulated in Pasal 116 ayat (4) Undang-Undang Nomor 51 Tahun 2009, which serves as legal pressure on officials who fail to comply with court rulings. However, its implementation remains suboptimal due to the lack of clear and detailed technical regulations. Therefore, PTUN judges should be granted broader discretionary authority to impose *dwangsom* not merely as an adjunct to rulings but as an integral part of administrative law enforcement. This approach aligns with the theory of effectiveness jurisprudence, emphasizing that law must be practically applied and have a real impact. The role of *dwangsom* as both a deterrent and corrective measure enhances public accountability and reinforces PTUN's position as the guardian of the rule of law and checks and balances. The Dutch practice of allowing

¹² Marzuki, P. M. (2019). *Penelitian Hukum* (14th ed.). Prenada Media Group: Divisi Kencana.

judges to determine the amount and duration of dwangsom proportionally can serve as a valuable reference for developing Indonesian procedural law to better ensure substantive justice. Consistent enforcement of dwangsom will improve compliance with PTUN decisions, guarantee genuine protection of administrative rights, and promote *rehabilitatio fiduciae publik*, thereby strengthening good governance and constitutional democracy in Indonesia.

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