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Analysis of Factual Action Regulations and Administrative Law mplications in Lawsuits for Unlawful Acts by the Government after Law Number 30 of 2014

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ABSTRACT: This study stems from the issue of administrative officials' authority in government administration, particularly regarding government actions that can be categorized as unlawful acts (onrechtmatige overheidsdaad). Following the enactment of Law No. 30 of 2014 on Government Administration and Supreme Court Regulation No. 2 of 2019, there have been significant changes regarding the subject matter of disputes, absolute jurisdiction, and case resolution procedures in the State Administrative Court. However, in practice, there are still gaps between legal norms and implementation, particularly regarding the overlap of authority between the general courts and the PTUN, judges' interpretation of the principles of good governance, and the effectiveness of the execution of decisions. This study uses a normative method with a qualitative approach through a literature review. The results of the study show that although the legal framework has provided a clearer foundation, judicial practice still faces various obstacles that limit legal protection for the community. Therefore, continuous evaluation of the consistency of judges' decisions and procedural law reforms are needed so that the main objective of administrative law, namely to protect the rights of citizens from abuse of authority, can be achieved.

KEYWORDS: Unlawful Acts, Legal Norm, Administrative Court, General Principles of Good Governance, and Administrative Law

I. INTRODUCTION

In a country, a legal rule is needed to regulate the special relationship between the government and the community, known as State Administrative Law. The government carries out Bestuurzorg, which is to act in the public interest based on its authority. The authority exercised by the government is to avoid Abuse of Power, which is the misuse of power by those in authority that can harm the community and the state. Authority in Dutch is "bevoegdheid" (meaning authority or power). In this case, the government may not act without a clear basis for doing so.[1]

In his book entitled The Web of Government, Mac Iver elaborates on the question "why does one human being rule over millions of others" Mac Iver writes as follows: "Government gives one human being power over other human beings, a power that no one else possesses, either by right or by force." This raises questions from thinkers of the past: how can it be that someone can obtain power from the government to rule over others.[2]

According to Hobbes, government is used by humans to avoid the difficulties and insecurity of living in a state of nature without government. Government actually eliminates human freedom and restrains all natural human desires. Government is a human creation and, according to Hobbes, it arose for the sake of human interests themselves. Although government can expand or limit human freedom, what drives humans to form a government is an individualistic motive, namely the desire to protect their property rights. Wealth is something that individuals initially acquire through their own efforts, using their energy and minds to cultivate the things and everything contained in nature. They need government to protect the wealth they have acquired from those who would infringe upon their property rights. Thus, humans enter a society, each bringing their own specific rights. The government erects a fence around the wealth, freedom, and lives of individuals, namely the fence of law.[3]

In state administrative law, the actions of state administrative officials (bestuurhandelingen) are every act carried out by government agencies (bestuurorgan) in carrying out governmental functions. In carrying out governmental functions, according to

[1] Fadjar Tri Sakti, Citra Dwi Lestari, and Enan Sumarni, "Perspectives on Accountability in Abuse of Power by Public Officials in Indonesia," *Jurnal Dialektika: Jurnal Ilmu Sosial* 21, no. 2 (2023): 149–55.
[2] C.S.T. Kansil and Christine S.T. Kansil*, Comparison of State Administrative Law*, (Jakarta: Rineka Cipta, 2010), p. 9
[3] Ibid, p. 15

H. Romeijn, government legal actions are a declaration of intent that arises from administrative organs in special circumstances and is intended to produce legal consequences in state administrative law. Actions carried out in the field of public law, such as making decisions or rulings (beschikking), imposing or imposing sanctions. In addition, in the private sector, such as conducting a tender process through the procurement of goods and services, buying and selling, leasing, and agreements with third parties or the private sector.[4]

The implementation of government activities in the realm of administrative law is an effort to fulfill the welfare of the community, which is realized through the actions of state administrative officials. These actions and deeds can give rise to public legal relations, particularly state administrative relations. This is the same as stated by W. Riawan Tjandra, that the form of relationship between the authorities and the people is through state administrative legal actions. The implementation of government administration in the dimension of state administrative law cannot be separated from the principle of legality, which requires that every government action be based on laws and regulations. These actions are also bound by legitimacy or conformity between the implementation of actions and the content of the law on which they are based.[5]

In the administration of government, officials and/or government agencies cannot carry out their duties and functions without the authority that has been granted to them. Thus, there are restrictions on authority that serve as guidelines in the administration of government. The purpose of these limitations on authority is to ensure that the power and authority of the government are not circumvented and abused, resulting in abuse of power (abuse of power/detournement de pourvoir). The implications of such abuse of authority can be far-reaching, such as one of the rules of state administration resulting in invalidity, which causes the decisions of government agencies or officials to be revoked. A limitation of authority can be used to determine which administrative actions are still valid and which have violated or exceeded the authority granted.[6] Based on this, the research in this paper is entitled "Limits on the Authority of Administrative Officials in the Implementation of Government Administration".

Unlawful acts against the government, as known in Indonesian legal history, originate from Article 1365 of the Civil Code, which falls under civil law.[7] Furthermore, the law on State Administrative Courts does not thoroughly explain or provide a definition of unlawful acts committed by government agencies or officials.

The elements of unlawful acts by the government are still unclear, and there are still decisions on disputes over unlawful acts by the government that are resolved in district courts. This proves that there are two state institutions that have the same authority regarding the subject matter of unlawful acts disputes filed by the government. This inconsistency prompted the Supreme Court to issue Perma No. 2 of 2019 concerning guidelines for the settlement of disputes over government actions and the authority to adjudicate unlawful acts by government agencies and/or officials.

The increasing number of lawsuits against the government for unlawful acts has raised various issues that test the ability of administrative law to adapt to changes and public behavior. The question is how current laws can be applied properly and fairly, and how the rights of the people can be protected without disrupting government operations.

When government officials are given the authority to exercise administrative power by the state, they often misunderstand the responsibilities entrusted to them. Although government officials have administrative power, this does not mean that the government can act arbitrarily in taking action. Given that Indonesia is a country based on the rule of law, all actions taken by Indonesian citizens must comply with legal provisions, and the government is no exception. Such measures appear necessary to ensure that policies or actions implemented by the government provide legal certainty for the community. When the government carries out its duties in accordance with the law, the community will feel protected and their rights guaranteed. It is the government's obligation to provide legal protection to the community and fulfill their rights, ensuring that the community does not feel that their interests are harmed by government actions that are contrary to the law, thereby causing harm to the community.[8]

One of the important laws in the Indonesian administrative law system is Law No. 30 of 2014 concerning Government Administration. With this law, the general principles of good governance have become more explicit and the process of resolving disputes involving government actions has become clearer. Law No. 30/2014 provides a clearer legal basis for lawsuits against unlawful acts by the government. This mainly relates to the government's responsibility for administrative actions that are considered unlawful and detrimental to the public.

Indonesian administrative law has undergone significant changes since Law No. 30 of 2014. The shift in the concept of state administrative decisions to the State Administrative Court in the domain of administrative law indicates a significant change. Several things are different in the procedural law of onrechtmatige overheidsdaad lawsuits when transferred to the State

[4] Aminuddin Ilmar, *Law of Governance* (Prenada Media, 2014). p. 75
[5] Wibowo. Richo Andi, *State Administrative Law* (Rajawali Pers, 2024), pp. 88-90
[6] Sedarmayanti et al. *Contemporary Development Administration in the Era of Industry 4.0 and Society 5.0* (Refika Aditama. 2022)
[7] T. Bustomi, *Civil Law and State Administrative Law in Theory and Practice* (Bandung: Alumni, 1994), p. 19.
[8] Sukmajati, Anggita, et al. Dynamics of Interpretation and Handling of Unlawful Acts by the Government. *Wahana Pendidikan Scientific Journal*, 2023, 9(13), p. 98

Administrative Court, including the need to take administrative measures before filing a lawsuit. This is in accordance with Article 75 of Law No. 30 of 2014 in conjunction with Article 2 of Supreme Court Regulation No. 6 of 2018 concerning Guidelines for Resolving Administrative Disputes After Exhausting Administrative Remedies. Based on Article 75 paragraph (2) of Law No. 30 of 2014, these administrative efforts can be carried out in two forms: objections and appeals.

The problems in the implementation of lawsuits against unlawful acts by the government based on PERMA No. 2 of 2019, such as issues related to the enforcement of citizens' rights, are the subject of separate discussions among experts and practitioners of administrative law. There are considerations that explain why many lawsuits against unlawful acts by the government are not granted, namely: 1) The existence of absolute authority indicating that the case is not within the jurisdiction of the State Administrative Court (based on the State Administrative Court Law and PERMA No. 2/2019); 2) The interpretation of the General Principles of Good Governance has been deemed relevant and has been applied by the Defendant/Government Official (based on the Administrative Governance Law); 3) An emergency situation that resulted in the Administrative Court not having the authority to examine, adjudicate, and decide on the case (Article 49 of Law No. 5/1986); and 4) The Plaintiff's request had been carried out by the Defendant/Government Official.

II. FORMULATION OF THE PROBLEMS

The issues raised in this study are as follows:

1. How is Law Number 30 of 2014 applied in handling lawsuits against unlawful acts committed by the government?
2. What are the problems in the implementation of lawsuits for unlawful acts by the government based on PERMA Number 2 of 2019?

III. RESEARCH METHOD

This study uses a qualitative approach with a normative legal research method. This method was chosen because the study focuses on a doctrinal review of positive legal norms governing unlawful acts by the government after the enactment of Law Number 30 of 2014 concerning Government Administration and Supreme Court Regulation Number 2 of 2019. The data sources used are secondary data sources. Secondary data is data obtained by researchers from literature or documents.[9] Secondary data includes primary, secondary, and tertiary legal materials. Secondary legal materials are obtained from literature, administrative law books, journal articles, previous research results, and expert opinions. Meanwhile, tertiary legal materials are in the form of legal dictionaries and legal encyclopedias that support the explanation of key concepts. The data collection technique in this study was library research, which involved searching, examining, and reviewing secondary data, including legislation, court decisions, and documents, with the aim of finding concepts, theories, opinions, or findings closely related to the issue.[10]Furthermore, the data analysis technique used in this study is qualitative data analysis. Qualitative data analysis essentially emphasizes the analysis of deductive and inductive reasoning processes and the analysis of the dynamics of the relationships between the observed phenomena, using scientific logic.

IV. DISCUSSION

A. The Application of Law Number 30 of 2014 in Handling Lawsuit Against Unlawful Acts Committed By The Government

Article 1365 of the Indonesian Civil Code defines unlawful acts as acts that violate applicable laws or regulations. By committing such acts, a person is obliged to compensate for the losses caused by such acts. Unlawful acts have a significant impact on interpersonal relationships in society and require a deep understanding of the legal basis, underlying theories, and underlying legal philosophy.[11]

Specifically, the term "action" in relation to illegal actions can be interpreted as follows: 1) Negligence, which is the failure to perform an action required by law. 2) Violation, which is an action performed in a manner that is not permitted despite a legal obligation. 3) Abuse of authority, which is an action performed even though the perpetrator is not authorized to do so. In legal theory, illegal acts are considered violations of legal norms that cause harm to others.[12]

The elements that must be present for an act to be considered unlawful are: 1) An act, which is a concrete action or omission by a person. 2) Violation of the law, which is an act that violates applicable legal norms such as laws or regulations. 3) The

[9] Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Prenada Media Group, 2005), p. 181
[10] Nazir, *Research Methods*, (Jakarta: PT Ghalia Indonesia, 2002), p. 27
[11] Halipah, Gisni, et al, Legal Review of the Concept of Unlawful Acts in the Context of Civil Law, *Serambi Hukum Research Journal* 16.01, 2023, p. 140
[12] Ibid, p. 140

occurrence of harm, where another party suffers harm as a result of the act, whether material or immaterial. 4) A causal relationship, namely a clear relationship between the illegal act and the harm that results from it.[13]

Unlawful acts by government agencies and/or officials constitute acts of government (onrechtmatige overheidsdaad) and are therefore subject to administrative court jurisdiction under Law No. 30 of 2014 on Government Administration.[14] In this context, administrative courts play an important role in ensuring that every administrative action taken by the government is in accordance with legal principles and protects the rights of the people. If there are actions that are considered unlawful, the public has the right to file a lawsuit to hold the relevant government agency or official accountable.

The enactment of Law No. 30 of 2014 on Regional Government related to Administrative Courts has expanded access to the courts for those seeking justice by closing the "loopholes" that were previously inaccessible to them. Since the Law on Regional Administration has opened access to the courts, judges in the state administration, as the primary enforcers of law and justice, must also be open to changes and developments in the field of regional administration. In general, the goal of the parties involved in a case is to resolve their case completely through a court decision accompanied by the implementation of that decision.[15]

Indonesian administrative law has undergone major changes since Law No. 30 of 2014. The shift in the concept of state administrative decisions into the domain of administrative law indicates a significant change. This is demonstrated by Article 87, which changes the definition of State Administrative Decision to an individual, concrete, and final written determination, but it must be interpreted as follows:

1. written decisions that also include factual actions.
2. Decisions of State Administrative Agencies and/or Officials in the executive, legislative, judicial, and other state administrative fields.
3. Based on statutory provisions and principles of good government.
4. Final in a broad sense.
5. decisions that may have legal consequences.
6. Decisions that apply to the general public.

After the concept of state administrative decisions was expanded, factual actions (feitelijk handelingen) are now also considered state administrative decisions. This certainly has various legal consequences, one of which is onrechtmatige overheidsdaad, which was previously the absolute competence of the district court, but is now the absolute competence of the State Administrative Court.[16] This is due to the fact that in the past, the Administrative Court only had absolute jurisdiction over administrative disputes arising from state administrative decisions that were written in a concrete, individual, and final nature (narrow state administrative decisions). However, currently, the concept of state administrative decisions has been expanded in accordance with Article 87 of Law No. 30 of 2014, known as (broad state administration decisions).

In the case of factual actions (feitelijk handelingen) regulated in Article 87 letter a of Law 30/2014, there are two possibilities, namely:

1. Factual actions that constitute the implementation of a written decision.
2. Factual actions that stand alone without a written decision

In the case of factual actions that can be challenged in the State Administrative Court, as indicated in Supreme Court Circular Letter No. 4 of 2016, the Legal Formulation of the State Administrative Chamber states that the object of a lawsuit in the State Administrative Court is a factual action or a written decision. Thus, it is clear that factual actions that can be challenged in the Administrative Court are factual actions that stand alone without a written decision and/or factual actions that constitute the implementation of a written decision.

The transfer of absolute jurisdiction over lawsuits against unfair government actions to the Administrative Court has legal consequences, one of which is a change in procedural law. Previously, the basis for procedural law used in district courts was civil procedural law, which usually originated from the HIR (Herzien Inlandsch Reglement) and RBg (Reglement Buitengewone Rechtsvordering). In contrast, the basis for procedural law in the administrative court usually originated from the Law on the administrative court. This change began with Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning Administrative Courts, which was later amended by Law Number 51 of 2009.[17] It is possible that, based on the legal basis, the procedural law applicable in the district court and the administrative court is different. Therefore, after its absolute

[13] Ibid, p. 140
[14] PERMA Number 2 of 2019
[15] Spaltani, Bita Gadsia, The State Administrative Justice System after the Enactment of Law Number 30 of 2014 concerning Government Administration, *Journal of Law and Public Administration*, 2025, pp. 53-54
[16] Wahyu Purnomo (et.a)l, Analysis of Lawsuit Against the Factual Action which Conducted by Military after Law Number 30 Year 2014 Concerning Government Administration, *Unram Law Review*, Vol. 4, No. 1, April 2020, p. 20.
[17] Dani Habibi, Comparison of Administrative Law and Verwaltungsgerecht as Legal Protection for the People, *Kanun Journal of Law*, Vol. 21, No. 1, 2019, pp. 1–22

jurisdiction was transferred to the Administrative Court, there was a significant change in procedural law in filing lawsuits related to unlawful acts by the government (onrechtmatige overheidsdaad).

Several differences in the procedural law for onrechtmatige overheidsdaad lawsuits when transferred to the Administrative Court include the need to take administrative measures before filing a lawsuit. This is in accordance with Article 75 of Law No. 30 of 2014 in conjunction with Article 2 of Supreme Court Regulation No. 6 of 2018 concerning Guidelines for the Settlement of Administrative Disputes After Exhausting Administrative Remedies. Based on Article 75 paragraph (2) of Law No. 30 of 2014, these administrative efforts can be carried out in two forms: objections and appeals. In fact, the obligation to implement these administrative efforts is a manifestation of the role of the government as a public servant or public official, where the main task of the government is to provide public services, not merely to serve lawsuits. Therefore, if the government cannot resolve administrative issues, the court will be the last resort.[18]

Following Law No. 30 of 2014, several important issues have arisen regarding onrechtmatige overheidsdaad lawsuits, one of which is the petitum that can be requested in the filing of a lawsuit. If the lawsuit is granted, the court may request the Government Administration Official to:

1. Take administrative action.
2. Refrain from taking governmental action.
3. Cease governmental actions.

Furthermore, Article 5 paragraph (3) of Supreme Court Regulation No. 2 of 2019 states that requests for rehabilitation and/or compensation may be accompanied by the implementation of the obligations referred to in Article 5 paragraph (2) and Article 5 paragraph (4) of Supreme Court Regulation No. 2 of 2019 states that rehabilitation refers to the restoration of the original situation, namely the situation before the administrative action was taken. Thus, the petitum that can be requested in a lawsuit for unlawful administrative action after Law No. 30 of 2014 is as follows:

1. Requesting government officials to take specific actions.
2. Requesting government officials to refrain from taking certain actions.
3. Requesting government officials to cease actions currently being taken.
4. Requesting compensation for losses suffered.
5. Requesting rehabilitation: restoration to the original state or restitutio in integrum.

As mentioned earlier, another important change related to onrechtmatige overheidsdaad lawsuits when transferred to the State Administrative Court is the execution or enforcement of the verdict. This is an issue that arises when onrechtmatige overheidsdaad lawsuits become the absolute jurisdiction of the district court, and the execution of the verdict is highly dependent on the goodwill of the government agency being sued.[19] As mentioned earlier, state assets cannot be seized after Law Number 1 of 2004 concerning State Treasury came into effect. Therefore, even though plaintiffs often win in decisions regarding unfair government actions, these victories are often only formal and have no real consequences.

B. Problems In The Implementation of Lawsuits Against Unlawful Acts By The Government Based On PERMA Number 2 of 2019

Illegal actions by the government in the sense of violations of legal provisions (overtreding van de wet) have three meanings: First, violations of the formal provisions of legislation. Second, violations of the substantive provisions of legislation. Third, legal actions taken by government agencies that are not authorized (onbevoegd).[20]

To examine the issues in Perma No. 2 of 2019, several theoretical foundations will be used as analytical tools. Article 1 paragraph 1 of Perma No. 2 of 2019 regulates government actions, which include acts carried out by government officials or other state administrators, both in the form of actual actions and omissions.[21] The above definition is certainly similar to Article 1 paragraph 8, which defines Action (Handeling) as follows: Administrative Actions of the Government, hereinafter referred to as Actions, are acts carried out by Government Officials or other state administrators, whether in the form of performing or not performing concrete acts, in the context of administering the government.

According to Article 1 paragraph 4, disputes over unlawful acts by government agencies or officials are referred to as onrechtmatige overheidsdaad. These disputes include claims that the actions of government officials are invalid, void, or have no

[18] Hari Sugiharto and Bagus Oktafian Abrianto, "Administrative Efforts as Legal Protection for the People in Administrative Disputes," *Arena Hukum*, Vol. 11, No. 1, 2018, pp. 24–47.
[19] Mohammad Afifudin Soleh, Enforcement of Final and Binding Administrative Court Decisions, *Mimbar Keadilan*, Vol. 4, No. 1, 2018, p. 2.
[20] Ridwan, *Settlement of Disputes over Government Violations of Law in Administrative Courts*, (Yogyakarta: Laksbang Akademika, 2022), p. 81
[21] Article 1 paragraph 1 of Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2019 concerning Guidelines for the Settlement of Disputes over Government Actions and the Authority to Adjudicate Unlawful Acts by Government Agencies/Officials (Onrechtmatige Overheidsdaad).

binding legal force, as well as claims for compensation in accordance with laws and regulations. This Supreme Court Regulation (Perma) uses the phrase "unlawful act" rather than "illegal act."[22]

In terms of the obligation to first pursue administrative remedies, Article 2 paragraph 2 states that after the applicant has pursued administrative remedies, the State Administrative Court has the authority to adjudicate disputes over government actions. This is regulated by Law Number 30 of 2014 concerning Government Administration and Supreme Court Regulation Number 6 of 2018 concerning Guidelines for the Settlement of Government Administrative Disputes After Exhausting Administrative Efforts. In this case, the conformity with the provisions of Article 2 paragraph 1 of Supreme Court Regulation Number 6 of 2018 explains: The court has the authority to receive, examine, decide and settle administrative disputes after pursuing administrative efforts.

Based on Article 10 of PERMA Number 2 of 2019, there is no longer any doubt regarding the authority of the State Administrative Court in handling disputes that are related to unlawful government actions (Onrechtmatige Overheidsdaad). However, issues related to the enforcement of citizens' rights are the subject of separate discussions among experts and practitioners of administrative law. The fulfillment of citizens' rights is essentially related to the fulfillment of the objectives of the law itself. Gustav Radbruch stated that the objectives of the law have three aspects: utility, certainty, and justice. In applying these three objectives of the law, the principle of priority must be applied.[23]

Gustav Radbruch stated that there is a hierarchy of priorities, where the main priority is always justice, followed by the public interest, and finally legal certainty. The law functions as a means to protect human interests in society. The purpose of law has objectives that must be achieved, including the distribution of rights and obligations between individuals in society. The law also plays a role in granting authority and regulating methods of legal dispute resolution while maintaining legal certainty.[24]

Perma Number 2 of 2019 increases attention to the requirements necessary to file a lawsuit for unlawful acts committed by the government. However, based on current developments, the number of lawsuits filed with the State Administrative Court after the enactment of the Perma in August 2019 is still small and has not been examined extensively.

Table of the number of lawsuits at the Jakarta Administrative Court during 2019-2022

No	Year	number of lawsuits at the Jakarta State Administrative Court	Number of lawsuits TF (OOD)	presentation
1	2019	268	1	0,3%
2	2020	262	2	0,7%
3	2021	314	5	1,5%
4	Jan-Marc 2022	80	4	5%

Source: SIPP Jakarta Administrative Court

The table showing the number of cases handled by the Jakarta Administrative Court from year to year indicates that not many lawsuits against the government have been filed by the public or private legal entities. However, in percentage terms, there has been an increase in the number of lawsuits against the government that have been registered. This indicates an increase in public awareness of the state administrative court as a tool and facilitator for challenging government actions that violate laws and regulations and the general principles of good governance. The state administrative court has functioned as a control and supervisory body for government organs, both in terms of decisions (beschikking) and policy regulations (beleidsregel), as long as they have not been converted into laws and regulations.

Based on a search of the Case Tracking Information System (SIPP) at the Jakarta PTUN and the Jakarta PTUN Decision Directory from 2019 to 2022, there is a particular problem in that decisions tend to reject or dismiss lawsuits, as further illustrated in the following table:

Table of Data on Lawsuits for Unlawful Acts

No	Case Number	Year	Defendent	Judgment
1	61/G/TF/2022/PTUN.JKT	2022	Minister of Health, President	Not yet Decided
2	51/G/TF/2022/PTUN.JKT	2022	Minister of Law and Human Right	Not yet Decided
3	46/G/TF/2022/PTUN.JKT	2022	KPK Leadership,BKN,Presiden	Not yet Decided

[22] Ibid, Article 1 point 4

[23] Sonny Pungus, *Theory of Legal Purpose*, http://sonny-tobelo.com/2010/10/teori-tujuan-hukum-gustav-radbruch-dan.html, accessed on August 20, 2025

[24] Randy Ferdiansyah, *The Purpose of Law According to Gustav Radbruch*, http://hukum-indo.com/2011/11/artikel-politik-hukum-tujuan-hukum.html. Accessed on August 20, 2025

4	27/G/TF/2022/PTUN.JKT	2022	Mayor of West jakarta	Not yet Decided
5	228/G/TF/2021/PTUN.JKT	2021	Directorate of Traffic, Ministry of Transportation	Rejected
6	227/G/TF/2021/PTUN.JKT	2021	Ministry of Agriculture	Unacceptable
7	223/G/TF/2021/PTUN.JKT	2021	PPK Port Management unit	Rejected
8	188/G/TF/2021/PTUN.JKT	2021	President	Unacceptable
9	123/G/TF/2021/PTUN.JKT	2021	President	Unacceptable
10	161/G/TF/2020/PTUN.JKT	2020	Education department, Governor of DKI Jakarta	Unacceptable
11	99/G/TF/2020/PTUN.JKT	2020	District Attorney RI	Granted
12	230/G/TF/2022/PTUN.JKT	2019	President, Minister Communications and Information	Granted

Source: SIPP PTUN Jakarta

There has been an increase in the number of lawsuits, according to a search conducted by SIPP (Case Search Information System) at the Jakarta Administrative Court and the Jakarta Administrative Court Decision Directory from 2019 to 2022. From 2019 to March 2022, the Jakarta Administrative Court has received 12 lawsuits for unlawful acts (OOD), of which 2 were granted, 4 were inadmissible, 2 were rejected, and 4 others are still under review. Of the 2 lawsuits that were granted at the first level by the Jakarta Administrative Court, after further investigation, the lawsuits were appealed and cassated, which then ended with a final decision by the Supreme Court in favor of the government official, namely the Attorney General of the Republic of Indonesia, in case 99/G/TF/2020/PTUN.JKT. This situation reinforces the difficulty of winning lawsuits for unlawful acts (OOD) at the Administrative Court.

There are several considerations that explain why many lawsuits against unlawful acts by the government are not granted: 1) The existence of absolute authority which indicates that the case is not within the jurisdiction of the Administrative Court (based on the Administrative Court Law and Supreme Court Regulation No. 2/2019); 2) The interpretation of AAUPB (General Principles of Good Governance) has been deemed relevant and has been applied by the Defendant/Government Official (based on the Administrative Governance Law); 3) An emergency situation that resulted in the Administrative Court not having the authority to examine, adjudicate, and decide on the case (Article 49 of Law No. 5/1986); and 4) The Plaintiff's request had been carried out by the Defendant/Government Official. These considerations by the judges pose a challenge for citizens who seek justice in cases of unlawful acts committed by the government, as reflected in the Supreme Court's Directory of Decisions, in which many lawsuits for unlawful acts have not been granted. Of the 12 PMH cases, only 2 decisions granted the lawsuit. However, both decisions granted by the Jakarta Administrative Court were overturned on appeal, one of which was in a PMH case against the Attorney General of the Republic of Indonesia.

In this case, judges have the freedom to consider evidence when deciding cases, as stipulated in Articles 100 and 107 of Law No. 5/1986, but judges must still pay attention to the fact that government actions need to be monitored and controlled in accordance with applicable norms. Whether in decisions that are granted or not, substantive matters, such as general policies, formal requirements, and their impact on related parties, must be seriously considered. The Administrative Court of the Republic of Indonesia as a representative of the state has an important role in ensuring legal protection against unlawful actions by the government. This court has the obligation to interpret the function of legal instruments that aim to protect and improve welfare in various fields. This is in line with the objective of Law No. 5 of 1986, which is to supervise the implementation of the duties and authorities of State Administrative agencies or officials. This supervision is interpreted as an effort to ensure that the principle of the rule of law is properly implemented, to limit power, and to create an orderly government that provides protection to the community.[25]

In practice, some judges in the general courts have not yet realized the shift in exclusive authority in the settlement of cases involving illegal government actions. This is clearly evident in the decision of the Kota Baru District Court (South Kalimantan) No. 18/Pdt.G/2017/PN.KTB, in which the OOD lawsuit was rejected on the grounds (Niet OnvantklijkVerklaard / N.O.) that the court did not have absolute competence. The following is the verdict:

JUDGMENT:

1. Accepting the absolute competence exception of the Defendants.
2. Declares that the District Court does not have the authority to examine and adjudicate the case in question.
3. The Plaintiffs are ordered to pay court costs in the amount of Rp 2,929,000 (two million nine hundred twenty-nine thousand Rupiah).

[25] Ali Abdullah, *Theory and Practice of Administrative Court Law* (Jakarta: Prenada Media Group, 2018).

However, the Banjarmasin High Court, in its decision No. 58/PDT/2018/PT BJM, overturned this decision and stated that exclusive jurisdiction for OOD remains with the general court (in this case, the District Court of Kota Baru), for the following reasons:

RULING:

1. Granting the appeal filed by the Appellants/Plaintiffs.
2. To overturn the decision of the Kotabaru District Court No. 18/Pdt.G/2017/PN Ktb. dated March 27, 2018, which was appealed.
3. Declares that the Kotabaru District Court has the authority to examine and adjudicate the case.

There are legal consequences arising from the transfer of absolute jurisdiction for cases relating to unlawful acts by public agencies from district courts to administrative courts. One of the fundamental legal consequences relates to changes in procedural rules. Previously, when cases related to unlawful acts by public agencies were under the exclusive jurisdiction of district courts, the procedural basis was civil procedural law, which essentially originated from the HIR and RBg. The legal basis for trials in administrative courts, on the other hand, generally originated from the Administrative Court Law (UU PTUN) and was later amended by Law Number 9 of 2004, which amended Law Number 5 of 1986 concerning administrative jurisdiction, Law No. 51 of 2009, which amended Law No. 5 of 1986 for the second time, Law No. 30 of 2014, and so on.[26]

The results of a survey of judges in courts of first instance show that 51% of respondents stated that OOD cases fall under the exclusive jurisdiction of administrative courts, 11% stated that such cases fall under the exclusive jurisdiction of district courts, and 38% stated that such cases can be decided by either district courts or administrative courts. On the other hand, only 84% of judges in administrative courts stated that decisions on OOD cases fall under the exclusive jurisdiction of administrative courts. Still, 16% of respondents stated that these decisions fall under the exclusive jurisdiction of both administrative and district courts. This means that there are still ts of judges in administrative courts who believe that not all OOD cases are decided by administrative courts.[27]

In addition, the use of the term "unlawful government action" (onrechtmatige overheidsdaad) in PERMA Number 2 of 2019 is inaccurate. This term relates to civil law, not public law. Therefore, the consequences relating to the standard of unlawful government action lawsuits adjudicated by administrative courts must be applied based on Article 1365 of the Civil Code. The correct term for illegal government actions is "onjuist besturen" (improper or deviant governance). The term "onjuist besturen" covers illegal governance (hetonrechtmatige besturen) as well as governance that is not in accordance with the principles or objectives set forth (hetondoelmatig besturen).[28]

V. CONCLUSIONS

The authority of the State Administrative Court in handling lawsuits against unlawful acts by government agencies/officials (onrechtmatige overheidsdaad) is clearly regulated in Article 2 of Perma Number 2 of 2019. In this case, factual government actions can be interpreted as one of the objects of the lawsuit. The requirements for filing a lawsuit, as stipulated, must be related to actions that violate laws and regulations or are contrary to the General Principles of Good Governance. The interpretation of these two requirements is left entirely to the discretion of the judge, as stipulated in Articles 100 and 107 of Law No. 5 of 1986 concerning the State Administrative Court.

However, in practice, there are a number of significant legal problems in the filing of Unlawful Acts lawsuits by the government. One of them is related to the interpretation of the absolute authority of the State Administrative Court, the interpretation of the General Principles of Good Governance, and the conditions under which the subject matter of the lawsuit is considered to have been carried out by the defendant. In addition, extraordinary situations or emergencies often become obstacles for the state administrative court to examine and adjudicate such cases. In this context, reform of the state administrative court judicial power is increasingly important to restore public trust. As an institution that plays a central role in the control and supervision of State Administrative officials, the state administrative court needs to continue to maintain its independence and ensure that the public is protected from potential abuse of state power.

REFERENCES

1) Abdullah, Ali.(2018). *Theory and Practice of Administrative Court Law*. (Jakarta: Prenada Media Group).

[26] Dani Habibi, Comparison of Administrative Law and Verwaltungsgerecht as Legal Protection for the People, *Kanun Jurnal Ilmu Hukum*, Vol. 21, No. 1, April 2019, pp. 1–22.

[27] Untangling the Knots of Unlawful Government Acts Under the Authority of the Administrative Court, accessed from, https://www.Hukumonline.Com/Stories/Article/Lt629653abc655e/Mengurai Benang-KusutOnrechtmatige-Overheidsdaad-Di-Bawah-Kewenangan-Ptun/, on August 20, 2025

[28] Rohman, Legal Issues in the Resolution of Actual Actions and/or Unlawful Acts by the Government as the Subject of Disputes in the Administrative Court (*Doctoral dissertation, Islamic University of Indonesia*), 2023, p. 107

2) Aminuddin Ilmar.(2014). *Law of Governance* (Bandung: Prenada Media).
3) C.S.T. Kansil dan Christine S.T. Kansil.(2010). *Comparative Administrative Law*. (Jakarta: Rineka Cipta).
4) Ferdiansyah, Randy. *The Purpose of Law According to Gustav Radbruch*. http://hukumindo.com/2011/11/artikel-politik-hukum-tujuan-hukum.html. Accessed on August 20, 2025.
5) Habibi, D. (2019). Comparison of Administrative Court Law and Verwaltungsgerecht as Legal Protection for the People. *Kanun Journal Ilmu Hukum*, *21*(1), 1-22.
6) Halipah, G., Purnama, D. F., Pratama, B. T., Suryadi, B., & Hidayat, F. (2023). Legal Review of the Concept of Unlawful Acts in the Context of Civil Law. *Jurnal Penelitian Serambi Hukum*, *16*(01), 138-143.
7) Marzuki,Peter Mahmud.(2005). *Legal Research*. (Jakarta: Prenada Media Grup).
8) Unraveling the Tangled Threads of Unlawful Government Acts Under the Authority of PTUN"Accessed from Https://Www.Hukumonline.Com/Stories/Article/Lt62953abc655e/Mengurai-Benang-KusutOnrechtmatige-Overheidsdaad-DiBawah-Kewenangan-Ptun/. On August 20, 2025
9) Nazir.(2002). *Research Methods*. (Jakarta: PT Ghalia Indonesia)
10) Pungus, Sonny. *Theory of Legal Purpose*. http://sonny-tobelo.com/2010/10/teori tujuan-hukum-gustav-radbruch-dan.html. Accessed on August 20, 2025
11) Ridwan.(2022). *Resolution of Disputes Regarding Government Violations of the Law in Administrative Courts*. (Yogyakarta: Laksbang Akademika)
12) Rohman, N. (2023). *Legal Issues in the Settlement of Actual Actions And/or Unlawful Acts by the Government as the Subject of Disputes in Administrative Courts.* (Doctoral dissertation,Universitas Islam Indonesia).
13) Sakti, F. T., Lestari, C. D., & Sumarni, E. (2023). Perspectives on Accountability in Abuse of Power by Public Officials in Indonesia. *Jurnal Dialektika: Jurnal Ilmu Sosial*, *21*(2), 149-155.
14) Sedarmayanti, dkk.(2022). *Contemporary Development Administration in the Era of Industry 4.0 and Society 5.0* (Jakarta: Refika Aditama).
15) Spaltani, B. G. (2025). The State Administrative Justice System After the Enactment of Law Number 30 of 2014 on Public Administration Government. *Journal of Law and Public Administration*, *3*(1), 51-62.
16) Soleh, Mohammad Afifudin.(2018). Enforcement of State Administrative Court Decisions State Administrative Court Rulings with Final Legal Force. *Mimbar Keadilan*. Vol. 4,No. 1.
17) Sugiharto, Hari dan Bagus Oktafian Abrianto.(2018). Administrative Efforts as Legal Protection for Citizens in Administrative Disputes. *Arena Hukum*, Vol. 11, No. 1.
18) T. Bustomi.(1994). *Civil Law and State Administrative Law in Theory and Practice*. (Bandung: Alumni).
19) Wahyu Purnomo, et.al.(2020). Analysis of Lawsuits Against Factual Actions Conducted by the Military after Law Number 30 of 2014 Concerning Government Administration, *Unram Law Review*, Vol. 4, No. 1.
20) Wibowo. Richo Andi.(2024). *State Administrative Law*. (Rajawali Pers).