

Unraveling the Challenges in Implementing Final and Binding Decisions of Administrative Courts: A Critical Study

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Abstract

This academic research aims to resolve State Administrative Court (PTUN) final judgement implementation concerns. This topic was investigated using normative legal methods including statutory protection and conceptual approaches. The study demonstrates that PTUN policies that cannot be executed have made society more depressed and apathetic. PTUN judgements are difficult to implement due to a lack of an executorial body, TUN staff education, and monetary punitive procedures. The Contempt of Court arrangement must be implemented to empower the Administrative Court. CountryTo enforce Administrative Court judgements, the Administrative Court Law may be amended to make it a crime for State Administrative Officers to refuse to comply. Second, the Criminal Code (KUIHP) revision increased Contempt of Court provisions to allow court judgment waivers. Finally, with a new judicial contest legislation.

Keywords: Decision, Non-compliance, Execution, State Administrative Court.

1 Introduction

The constitution of Indonesia governs several aspects of national life. Article 1, paragraph 3 of the Constitution of 1945 reads, in part, as follows: "Indonesia is a country based on law." This provision addresses the state's structure and sovereignty. The concept of a rule of law state is predicated on the belief that law, not politics or the economy, should be at the helm of state affairs. This means that the highest level of government in Indonesia is founded on legal ideals (*rechtsidee*) that reflect the values of the Indonesian people as a whole. A just law in Indonesia is one that is consistent with the values and beliefs of the Indonesian people, can safeguard individuals and groups, and provides for the material and spiritual needs of its citizens. country, country life, and state life (Rahardjo, 1984).

According to FJ Stahl, legal scholars from Continental Europe contend that only when a state meets the following four criteria can it be called a rule of law (1) Human rights are safeguarded, (2) A separation of powers exists, (3) Everything the government does has to be legal, and (4) The State Administration Court exists (Habibi, 2019).

Since the formulation or understanding of the rule of law must evolve in response to advances in human history, the notion of the rule of law is a product of history. The

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origins and evolution of the idea of a rule of law state can be traced back to the course of political and legal history. The rule of law as a notion took off in the late 19th and early 20th centuries. Immanuel Kant and Friedrich Julius Stahl coined the word "Rechtsstaat" for usage in continental Western Europe, whereas AV Dicey coined the term "rule of law" for use in Anglo-Saxon countries. Two of the aspects of a rule of law put out by Friedrich Julius Stahl, which are also central to Immanuel Kant's view of a rule of law, are the preservation of human rights and the separation of powers within the state, respectively (Sarah, 2022).

Constitutional democracies are characterized by the establishment of a state administrative court because of the belief that a democratic government has limited power and is not permitted to act arbitrarily towards the people of its country. (Azzahra et al., 2020). The State Administrative Court has been in operation since 1986, when Law No. 5 of 1986 concerning the State Administrative Court was signed into law; the Court officially began operating on January 14, 1991, per Government Regulation No. 7 of 1991. It is underlined in the constitution that Indonesia is a state built on law, and the existence of regulations in the legal system is thought to bring this closer to actualization.

Meanwhile, since Indonesia's independence, the rule of law ideas have become intrinsic to the growth of the concept of Indonesian sovereignty. Although the concept of a rule of law was not clearly articulated in the pre-amendment articles of the 1945 Constitution, it was underlined in the Elucidation that Indonesia is a 'rechtsstaat,' not a 'machtstaat.' The judicial power or judiciary plays a crucial role in maintaining law and order and achieving legal goals through its law enforcement and supervisory responsibilities. It is common for the discovery or creation of law to play a central role in law enforcement and policing (MS Mertokusumo & Pitlo, 1993).

The State Administrative Court has been given legal backing by three separate pieces of legislation: Law No. 5 of 1986, Law No. 9 of 2004 amending Law No. 5 of 1986, and Law No. 51 of 2009 making further amendments to Law No. 5 of 1986. By evaluating a narrow subset of decisions made by State Administrative authority, the State Administrative Court stands as a symbol of the use of the judicial function to control the electoral process. (Sari & Wibowo, 2023). In addition, as stated in article 115 of Law no. 5 of 1986, the State Administrative Court can only enforce final judgements.

Gustav Radbruch contended that the purposes of law could only be attained by following the primacy principle of those three pillars. Because in reality, fairness often conflicts with ease and security. When one of these three legitimate goals conflicts with another, one of them must give. For this reason, Gustav Radbruch's priority order must be applied as follows: Legal fairness, legal advantages, and legal certainty. (Erwin & Arpan, 2012).

Lawrence M. Friedman argues that the effectiveness and efficacy of law enforcement may be attributed to three elements of the legal system: the statutory protections provided by law, the content of the law (material of the law), and legal culture. The legal culture of a civilization can be viewed as the "living law" of that community.

The judicial system, for example, is an institution embedded in the legal framework because it was established to administer the law. The judicial system guarantees that lawful procedures are used while dispensing justice. The Judicial Branch Protects Legally Protected Interests and Serves the Public by Doing So.

Law no. 5 of 1986 pertaining to the State Administrative Court establishes a system of self-respect or self-obedience for the execution of state administrative court decisions by state administration officials who have become parties to the law. The new law is based on an enforceable, exclusive, fixed-elxelcultion system, as was the case with State Administrative Court Decision No. 5 of 1986. If the appropriate official does to comply with this rule, they may face financial penalties and/or disciplinary action (paragraph 4 of Article 116). (Suhariyanto, 2019).

If it is still not in effect, the clerk shall announce it in a newspaper (section 5 of Article 116) unless the delay is justified. To ensure that the judgement of the State Administrative Court is carried out, the president, as the highest authority in the land, must be notified of the case and given the authority to issue an order to the offending official.

Multiple studies reveal that the State Administrative Court's decision enforcement system is only slightly effective, despite recent modifications to the state's administrative justice law. The efficacy of law enforcement can, in part, be measured by looking at the "executive power" of various decisions. (Suyanto et al., 2022). The state administrative court will resort to compulsion in the name of law and justice if the losing party refuses to voluntarily comply with the winning side's verdict. (Permana, 2015).

Research by Wulan Febriyanti Putri Suyanto at the Makassar State Administrative Court reveals that the court has been unable to impose coercive measures due to the lack of execution of decisions involving coercive measures over the previous three years. (Suyanto, 2022). Despite the ruling from the PTUN, Amzulian Rifai continued to call the court's decision a "toothless tiger" because of the persistent flow of complaints about alleged maladministration to the Ombudsman of the Republic of Indonesia. In 2016, there were 9,010 reports, and some of them concerned unenforced PTUN rulings. (Rifai, 2017)

For the sake of maintaining public faith in the judicial system, making sure that everyone is treated fairly, protecting the rights of people, and looking out for the public interest, it is imperative that State Administrative Court (PTUN) rulings that have the force of law be followed out. Maintaining legal certainty depends in large part on binding rulings being put into effect. When the judgment becomes binding, the parties will know exactly what their rights and responsibilities are under the law. This helps maintain an impartial and fair judicial system.

Decisions made by the Administrative Court frequently involve issues of public or individual interest. The execution of PTUN rulings with legal force still prevents abuse of power by the authorities since it serves as a mechanism to defend individual rights that may have been violated or to assure the implementation of public policy in line with the law. Many rulings handed down by the Administrative Court require the government or public institutions to behave in conformity with established rules and regulations.

If PTUN rulings are made that cannot be implemented, pessimism and apathy will spread across society. If state administrative personnel don't carry out court orders, it can hurt the court's reputation, lead to harassment, and, worst case scenario, cause people to lose faith in the justice system. Respect for the PTUN's decisions reflects a dedication to fairness. After hearing arguments from both sides and considering the evidence, the jury has reached its conclusion. Adhering to the procedure's final outcome requires action.

In light of the preceding, the purpose of this study is to investigate the barriers to carrying out rulings from Indonesia's state administrative court, whose decisions are as binding as those of the country's highest court?

2 Literature overview

The State Administrative Court exists so that members of the public can challenge decisions made by state administrative organizations and/or officials through the legal system. The goal is for state administrative bodies or officials to feel accountable to the people they serve, and to work to foster that feeling (Tjakranegara, 2000)

Prajudi Atmosudirjo claims that the state administrative court's primary function is to protect the government's, the people's, or the state's best interests. In states where there is an administrative court, citizens have been able to sue the government to address administrative injustices and get results (Admosudirjo, 1998).

State administrative court decisions are only binding if they are deemed final (in kracht van gewijsde). Only "court decisions that have permanent legal force" can be enforced by the state's administrative court system, per Article 115 of Law 5 of 1986. fixed. The choice has been made and can no longer be changed. Judgment is final and binding under *elga omnels*, one of the grounds of judgment in state administrative court procedural legislation. (Habibi & Nuryani, 2020).

In addition, Rozali Abdullah reportedly indicated categorically that the use of security forces to enforce the ruling of the state administrative court was not an option. The President's unique position as head of state allows him or her to block or delay the State Administrative Court's orders. (Dinata, 2021). It is feasible for the president to take part in the construction of government machinery in order to ensure that all government apparatus, including the implementation of decisions made by the TUN court, complies with all applicable laws and regulations.

Paulluls Elffelndiel Lotullulng claims that the State Administrative Court employs two distinct methods of execution.

1. Judgment enforcement including requirements under Article 97, paragraph (9) letter a, specifically the responsibility to revoke the applicable KTUN.
2. Judgments with enforceable obligations, such as those listed in subparagraphs (b) and (c) of Article 97 paragraph (9), are put into effect:
 - a. a. KTUN cancellation and new KTUN issue, as described in Letter b
 - b. The issuance of a KTUN in the event of litigation is grounded in Article 3, letter c (Mulyana & Kusumaatmaja, 2022).

In addition, Lotulung clarified that if a first-type execution occurs, the provisions of Article 116 paragraph (2) would apply, specifically that if, four months after the court decision that has obtained permanent legal force as referred to in paragraph (1) is sent, the defendant does not carry out his obligations, then the KTUN in question would no longer have legal force. Therefore, further court intervention, such as warning letters, is unnecessary. For the simple reason that the KTUN will be rendered null and void. Automatic execution describes this mode of carrying out orders.

In the second type of execution, the provisions of Article 116 paragraphs (3) through (6) are applied, namely, a government letter from the chairman of the court is shown to the TUN official concerned to carry out the execution of the court decision, and if it is not obeyed, the chairman of the court submits this to the superior agency of the TUN official according to the level of position, which can be forwarded to the President as the holder of the high office. Hierarchical execution describes this method of carrying out orders.

3 Research Method

Normative legal research is the appropriate category for this investigation because of the concerns and/or notions chosen as the basis for the study. Normative legal research makes use of normative case studies, which take the shape of legal behavior products like evaluations of legislation. Positive law, legal principles and doctrine, legal discovery in cases in concreto (concrete), legal systematics, level synchronization, comparative law, and legal history are the main foci of normative law scholarship, where law is understood to be a social norm or rule that serves as a reference for the actions of all members of society. (Mahmud Marzuki, 2011).

Researchers employ a variety of legal methodologies, including a statutory approach, a conceptual approach, a philosophical approach, and a comparative legal methodology. Normative legal research, as described by Peter Mahmud Marzuki in his book, requires an understanding of the hierarchy and principles found in statutes (Ishaq, 2017). Since

data is not typically associated with legal research, the word "legal material" has come to be used instead. This is because most, if not all, normative juridical sources of legal study are gathered in a library rather than in the field. The science of law, which examines such topics as law's ultimate goal, the values of justice, the soundness of rules, conceptions, and norms, will be used as a prescriptive framework for this analysis. Juridical practice is governed by the rules and regulations established by jurisprudence, an applied science (Marzuki, 2016).

Gustav Radbruch argues that certainty is more important than any other legal goal at any point in time. The law ought to be clear and unwavering in its intentions. The enacted laws will be irrevocable unless and until they are repealed. Misunderstandings of the law often lead to a total adherence to the sound and even the character of the articles in the law, leading to the adage "lex dura sed tamen scripta," which translates to "the law is harsh but it is written down."

To ensure compliance, the law must be a codified set of rules. It is crucial to bear in mind, however, that laws cannot abrogate laws (MS Mertokusumo & Pitlo, 1993). Despite the fact that laws are codified in written form, it is impossible for their literal terms to always accurately reflect the laws' intended meaning and application (Priyanto, 2011). The more the rule of law is exact and sharp, the more persistent justice will be since it will eliminate as much confusion as possible in the law. *Summum ius, summa iniuria* means exactly this (Van Apeldoorn, 1998). Alternatively, the adage that "the highest justice is the highest injustice" is commonly thrown around (Marzuki, 2016).

To prevent governmental arbitrariness, it is essential that everyone understand what is and is not legal to do. This is what we mean by "legal certainty." People in this situation are referred to as "justice seekers," and they want reassurance that they will be treated fairly (MS Mertokusumo & Pitlo, 1993), but a thirst for retribution. Specifically, Sudikno stated:

"The resolve to offer those seeking justice what they rightly want is what produces legal certainty, not the application of enslaving texts. A larger degree of confidence, generated by the will to conform, is therefore said to decide the prior certainty, which is based on the text that is always more or less. Words used to instill confidence, but now faith bestowed through fairness is what people rely on.

The second school of thought holds that the goal of law is to help people. That the legislation must serve some greater good or economic purpose. Utilitarian According to Jeremy Bentham, the point of legislation is to make sure that the most people are happy. This is also known as "the greatest good for the greatest number." (S. Mertokusumo, 2008).

Even though the law sees and protects humans not only in the form of a society, but also from the standpoint of their existence as individuals, this teaching has a flaw in that the happiness offered by the flow of utility is numerical, so as long as many people are legally lucky, it doesn't matter if there are a small number whose rights are sacrificed. If many people's rights have to be compromised, then it cannot be justified. In order to maintain its commitment to upholding justice, the law must ensure that even the weakest party is protected. That "the first law aims to guarantee justice; where that is not possible, the law of pursuit of benefit or *doelmatigheid*" is what applies, as stated by O. Notohamidjojo." (Notohamijoyo, 2011). Notohamidjojo also values legal certainty highly as an element of benefit (Prasetya & Nanda, n.d.).

According to Radbruch, the next objective of the law is that every case be handled in the same way (Sa'adah, 2017). "One can say that the purpose of law is only justice, meaning that in justice there must be and there are always benefits," argues Teguh Prasetyo."(Prasetyo,SH,M.Si, 2019). Justice-realizing law is something that Geny, a

philosopher, advocates for (S. Mertokusumo, 2007). According to van Apeldoorn's quoting, he says:

Although Gen insists that justice alone should be the focus of law, he nevertheless sees it as his duty to advocate for the incorporation of concerns such as practicality and speed into the concept of justice. *The Righteous Man Keeps the Useful Stuff Tucked Away in His Pants* (Van Apeldoorn, 1998)

4 Discussion

Implementation of State Administrative Court Decisions with Permanent Legal Force.

Disputes arising out of the issuance of State Administrative Decisions (KTUN) in accordance with applicable laws and regulations between private citizens or legal entities and central or regional State Administrative officials are resolved by the State Administrative Court. The State Administrative Court is not the only court in Indonesia, but it does have the authority to rule on cases involving State Administrative matters.

Except for cases where a single judge is assigned to examine a dispute involving the State Administration, the Administrative Court often reaches its decision after careful consideration. Without the parties present, the members of the panel of judges, chaired by the chairman of the panel of judges, deliberate on the case. At a public hearing to which both parties and/or their representatives are invited, a decision will be made on a certain date.

Having a State Administrative Court (PTUN) is crucial to maintaining public trust in government. *The Value of a Well-Run State Administrative Court* (Hamidi, 1999):

1. Acting as a watchdog to ensure that all state administration activities, namely those of a state administration agency or official, stay within the bounds of the law.
2. As a place where people can go to have their rights as citizens protected from abuses of power by government agencies and employees.

With regards to the procedural law of the state administrative court, which includes the following legal principles: (Philips et al., 1994).

1. Assumption of rightness (*vermoeden van rechtmatigheid praesumptio iustae cause*) 1. Based on this premise, we must always assume that official acts are rechmatig till proven otherwise. This idea underpins Article 67 paragraph (1) of the Administrative Court Law, which states that a lawsuit cannot stop the implementation of a decision made by a state administration.
2. The burden of proof is left to the discretion of the judge (the "free proof" principle). The rules in Article 1865 BW don't apply here. Article 107 of Law No. 5 of 1986 abides by this principle, but it is nonetheless constrained by the stipulations of Article 100.
3. The idea that judges should be involved (*dominus litis*). Since the defendant is a member of the state administration and the plaintiff is a private citizen or corporation, the judge's involvement is meant to level the playing field. Articles 58, 631 and 2, 80, and 85 of Law No. 5 of 1986 all apply this idea in various ways.
4. The court's decision is final and binding "erga omnes" since it applies the law uniformly. Disputes between state departments fall under the jurisdiction of public law. Therefore, the decision of the state administrative court is final and binding on everyone, not only the parties to the case.

Per Section 97 Subsection 7 of Act 5 of 1986 Relating to State Administrative Procedures Depending on the circumstances, a court may rule against a lawsuit, refuse to accept it,

find it to be without foundation, dismiss it, or grant it in its entirety. (Titik, 2016). A state administrative agency or office will be required to follow the terms of a court order if the plaintiff prevails in court:

1. Cancellation of the relevant country's administrative ruling
2. The applicable state administrative decision will be overturned and a new one will be issued.
3. decisions made by the government in cases brought to court under Article 3 of Law No. 5 of 1986 (Revelation, 2021), that is:
 - a. The inaction of a state administrative agency or official when it is their duty to make a determination is the same as a state administrative decision.
 - b. If a state administrative body or official does not issue a sought decision within the time range established by law and regulation, it is deemed to have refused to do so.
 - c. The relevant state administrative body or official is presumed to have rendered a decision on rejection four months after the application was submitted if the time limit referred to in paragraph (2) is not stated by the applicable laws and regulations.

There have been various changes to the state administrative justice statute that concern the process for carrying out state administrative justice rulings:

1. First, it is based on the State Administrative Justice Law from 1986 (Law No. 5)
 - a. A copy of the judgment will be sent to the parties through registered mail within 14 (fourteen) days of its entry by the local court clerk at the instruction of the chief judge of the court that heard his initial case.
 - b. Within four months following the court decision that has achieved permanent legal force (paragraph (1)), the administrative decision of the relevant nation will no longer be binding if the defendant fails to comply with his obligations (Article 97 paragraph (9) letter a)).
 - c. The plaintiff may apply to the Chief Justice of the Court (per paragraph (1)) to have the Court order the defendant to carry out the verdict if the defendant is found to be obligated to do something (per Article 97 paragraph (9) letters b and c) and it is discovered three months later that the defendant has not done what he was obligated to do.
 - d. The presiding judge will notify the agency's higher-ranking officials if the defendant still refuses to comply.
 - e. Within two months after receiving notification from the chief judge, the official in question (paragraph 3) must have been instructed by the higher agency (paragraph 4) to carry out the court's decision.
 - f. The court grants the President, as the highest ranking government official, the authority to direct the official to carry out the court's ruling if the higher agency (paragraph 4) disobeys the discretionary authority granted in paragraph (5).

The foregoing provisions demonstrate that the State Administrative Court places a premium on ensuring that its decisions are implemented in accordance with a hierarchical system based on the dignity or awareness of the state administrative officials responsible for implementing the decisions reached by the court. This mode of execution shows the limited authority of the State Administrative Court by reducing the burden on state administrative officials to implement court decisions. (Suhariyanto, 2019). Article 116 of Law No. 5 of 1986 was amended as a result, specifically Paragraphs (4), (5), and (6), by Law No. 9 of 2004 amending Law No. 5 of 1986 establishing the State Administrative Court.

2. Under Law No. 5 of the State Administrative Court, 1986, as amended by Law No. 9 of 2004

a. No later than 14 (fourteen) days after the judgment becomes final and binding, the local court clerk, acting on the direction of the chief judge of the court that initially heard his case, mails copies of the final judgment to the parties.

b. After the court's decision with permanent legal force (paragraph (1)) has been conveyed to the defendant, the contested state administrative decision is null and void if the defendant has not complied with his obligations under Article 97 letter a) within four (four) months. Again.

c. The plaintiff may apply to the court's chief justice (as described in paragraph (1)) to request that the court issue an order compelling the defendant to fulfill the obligation if the court rules that the defendant is responsible for fulfilling the obligation (Article 97, paragraph (9), letters b) and c), but if the obligation remains unfulfilled after three months.

d. If a defendant is reluctant to comply with a final judgment, coercive measures, such as monetary fines and/or disciplinary action, may be implemented.

e. If item (e) of paragraph (3) is not met, the clerk will publish notices in the local press about the officials' failure to follow court instructions.

This rule involves a form of coercion for State Administrative employees who do not voluntarily carry out court decisions, ensuring that PTUN rulings with legal force are implemented as intended and contributing to the formation of an authoritative judiciary. The provisions of the 2004 amendment, which included the use of administrative punishments and compelled payments, did not have the desired effect. It even raises some problems. (SOLEH, 2017)

3. In accordance with Article 3 of Law (No. 5) of the State Administrative Court of 1986 and Amendment No. 2 to that Act (No. 51 of 2009)

a. At the direction of the presiding judge from the original trial, the clerk of the local court mails out copies of the final judgment to the parties involved within 14 (fourteen) days.

b. Within 60 (sixty working days), the contested state administration judgment is null and void unless the defendant who failed to comply with Article 97 paragraph (9) letter a) obtains the decision with permanent legal effect as referred to in paragraph (1)..

c. The plaintiff may apply to the head of the court as described in subparagraph (a) of this paragraph, asking that the court order the defendant to fulfill the court decision if the defendant has not complied with the obligations described in subparagraphs (b) and (c) of Article 97, paragraph (9), after 90 working days.

d. If a defendant is resistant to carrying out a final court order, the court might use coercive means such as monetary fines and/or administrative sanctions to get the job done.

e. Clerk will notify local broadcast and print media of authorities who refuse to carry out court orders as indicated in paragraph (4) if the discretion described in paragraph (3) is not reached.

f. In addition to making an announcement in the local press, the head of the court must also submit this matter to the president as the highest authority to direct the official to implement judicial decisions and to the people's representative institutions to carry out the oversight duty.

g. Statutes determine the maximum amount that can be collected, the sorts of administrative fines that can be levied, and the procedures for collecting them.

State administration professionals, who often find themselves in the position of defendant and losing party in state administrative conflicts, can benefit from the fine-tuning of the arrangements outlined in the aforementioned article. Article 116 of the Second Amended Law on State Administrative Justice of 2009 appears to be a synthesis of Article 116 of the Original Law on State Administrative Justice (Law No. 5) of 1986 and Article 116 of the First Amended Law on State Administrative Justice (Amendment No. 9) of 2004.

This is made abundantly obvious in paragraph (6), which grants the president the ultimate authority to issue directives to government personnel who are tasked with carrying out rulings made by the state administrative court. The president, as head of state and commander-in-chief, must issue directives to state administration officials who are charged with carrying out decisions in accordance with this provision, a feature of hierarchical execution originally stipulated in old article 116 of 1986.

In civil procedural law, "coercive measures" refer to any efforts made to force the defeated party to carry out the ruling against their will. Examples of such actions include police assistance in emptying the home and confiscation. This is an obligatory effort made to satisfy a decision awarded to the successful party. In accordance with state law controlling administrative procedure, the state administrative court can either reverse the previously issued KTUN or order the defendant to issue the KTUN requested by the plaintiff without resorting to any recognized coercive tactics.(Dinata, 2021).

Obstacle Factors in the Implementation of State Administrative Court Decisions with Permanent Legal Force.

When addressing the goals of law, jurists often return to the original three goals articulated by Gustav Radbruch: certainty, justice, and expediency. Radbruch shifted his vision at last.(Kurnia, 2013). After realizing that Germany under Nazi rule had legitimized inhumane practices during World War II with the help of his theory, Radbruch made the aforementioned correction by elevating the pursuit of justice to the status of all other legal purposes (Fanani, 2011). He then went on to say, "Est autem jus a justitia, sicut a matre sua ergo prius fuit justitia quam jus." The law, like a human life, must first be conceived in the womb of justice (Patterson, 2013).

Aristotle defines two types of justice, commutative justice and distributive justice. People who support distributive justice think that everyone should get paid equitably for what they bring to society."(Van Apeldoorn, 1998). Commutative justice is based on the idea that everyone in a society should be treated fairly regardless of their position. (S. Mertokusumo, 2007).

In practice, the existence of PTUN has not been able to provide full justice for the community within the scope of government administration, demonstrating that there was a flaw in the State Administrative justice system as evidenced by the high number of cases in which PTUN decisions were not carried out in full. Since the state administrative court will have a reputation as a court that does not roll over (ulsellelss), the public's view of government power would diminish.

Despite changes to the state administrative justice law, multiple studies show that the State Administrative Court's decision enforcement system is only marginally effective. The extent to which a decision can be carried out, known as its "executorial power," is one indicator of how effectively laws are enforced. A law or standard is created with the intention that it be implemented by the same set of people who were involved in its inception. Therefore, if a law is not carried out or is not obeyed, it is not law and should not be called such (Suyanto et al., 2022)

State administrative court decisions are implemented differently in other countries than in Indonesia, as shown by a comparison of state administrative courts in France, the Netherlands, and Belgium (Conseil D'Etat), Germany (Bundesverfassungsgericht), Greece (Symvoulia Epikratias), Italy (Consiglio di Stato), Spain (Tribunal Supremo),

Switzerland (Tribunal Federal), and the European Union Court of Justice. It is uncommon for public officials to disobey a court order, but when they do, the people involved are usually held accountable. (Miarsa et al., 2021).

The state administrative court's ruling is binding in all circumstances, but that doesn't mean it will be carried out easily or readily. However, in this case, the president can get involved because the security apparatus is unable to implement the PTUN decision. Issues with enforcing state administrative court decisions:

1. No Special Executorial Institution

Execution of court decisions with permanent legal force (*inkracht van gelwijsde beslissingen*; "execution of final court decisions") is the responsibility of clerks and bailiffs under the supervision of the head of the district court (article 36 paragraph 3 Law No. 4 of 2004, Article 197 paragraph 2 HIR/Article 209 paragraph 1 RBg), and in criminal justice, this responsibility falls to the prosecutor (article 270 of the Criminal Procedure Code).

The Military Prosecutor is responsible for carrying out all forms of confiscation (*beslag*) ordered by military courts in accordance with the determinations and decisions of military judges and religious courts, as provided for in articles 95, 98, and 103 of Law no. 7 of 1989. Meanwhile, reprimand through superiors in a hierarchical fashion up to the presidential level is all that can be enforced in state administrative courts. This is the only branch of Indonesia's legal system that lacks an executorial institution. Therefore, it should come as no surprise that many decisions are not carried out without adequate justification (Pattipawae, 2019). Obviously, this condition is detrimental to law enforcement in Indonesia, as well as those seeking justice.

There are a number of issues that can arise when PTUN judgments are not executed by a designated entity:

- a. In the absence of an independent executorial body, no one is held accountable for ensuring that PTUN judgments are carried out as intended. Because of this, there is a greater chance of non-compliance because decisions may not be monitored effectively.
- b. Delays in putting decisions into action may occur when there is no designated body to carry them out. It's possible that the agencies charged with putting choices into action have a lot on their plates already, making decision implementation a low priority.
- c. Without a defined body to carry out decisions, it can be unclear what department or person is accountable for doing so. This can cause muddle and make it hard to steer the implementation process.
- d. The lack of a dedicated executorial body for PTUN decisions may contribute to the lack of transparency surrounding their execution. Since the implementation of the decision is not the responsibility of any one person or group in particular, it is hard to gauge its success.

There are a number of options worth considering to get through this barrier:

- a. The government may create a specific executorial institution with the authority to see that the judgements of the Permanent Court of Arbitration for the United Nations (PTUN) are carried out.
- b. Better Coordination: To make the most of the time and resources spent putting PTUN decisions into action, relevant agencies and government agencies tasked with doing so need to work together better
- c. The government is responsible for providing the agency in charge of carrying out the decision with the financial and human resources it requires to carry out its mandate.

d. Law Enforcement and Sanctions: There must be severe penalties for those who refuse to follow PTUN rulings. This can help organizations take decisions more seriously and put them into action.

e. The implementation of decisions should be conducted openly, and updates on their status should be communicated on a regular basis.

By addressing these obstacles, it is intended that PTUN judgments with binding legal effect can continue to be carried out efficiently and effectively, and that all parties involved would be afforded greater legal protection.

2. Officials' lack of awareness State Administration Obeying Orders Issued by Administrative Law Judges

As we can see, many TUN officials continue to show little interest in the PTUN's ruling. The issue arises in the state's administrative justice system when the Administrative Court Judge's ruling is contingent on whether or not the relevant authority in state administration is prepared to implement it (floating execution).

According to article 116 of Law no. 5 th 1986 to UIU No. 9 of 2004 and Law no. 51 of 2009, the court can ask the superior of the TUN official or even the president to "force" the defendant to carry out the court's decision. Since it is believed that the president will lose his authority if he interferes too much in the making and carrying out of PTUN rulings, these two things cannot occur simultaneously.

According to Rozali Abdullah's book, the procedural law of state administrative justice, a court's decision is only as effective as the judge presiding over it and the court staff's knowledge of the law. Hundreds of PTUN rulings have been ignored for six years, according to statistics published by mainstream media *Jatim Timels.com* on 28 February 2020. In light of these facts and figures, it is safe to say that official compliance with the law is still low, especially with respect to the rulings of the state administrative court. As a result, it turns out that Indonesian officials have a poor track record of enforcing PTUN rulings. Since Indonesia is a rule-of-law democracy, law enforcement there should follow the book (Ramadan & Literature, 2022).

3. Void of Forced Money Implementation Instrument

Dwangsom, or "forced money," is a form of *assevoir*, or additional penalty used as a guard and also as coercion to ensure compliance with an order issued by the Administrative Court. The use of coerced financial resources thus becomes a form of capital punishment. Law no. 51 of 2009 does not explicitly stipulate to whom the financial burden of paying the forced money is imposed, how much the forced money must be paid by the defendant or state administration officials who do not comply with the decision of the state administrative court, and whether or not the financing comes from the defendant or the state administration. This creates problems with the mechanism for applying forced money in relation to the execution of decisions made by state administrative courts.

Provisions addressing the amount of forced money and the methods for carrying out forced payment of money are regulated by statutory regulations, as stated in Article 116 of *Ulul No. 5 of 2009* concerning amendments to the management of *UIU No. 5 of 1986*. Unfortunately, up to 14 years after Law No. 5 of 2009 was passed, no regulations violating coerced money have been issued (Heriyanto, 2021).

Lacking a legislative framework for the implementation of compelled financial payments under the provisions of Law no. 51 of 2009 will provide an obvious juridical challenge in the execution of verdicts made by state administrative courts. To bridge the regulatory gap in the application of state administrative justice until coerced money is officially controlled, preexisting juridical instruments, such as statutes and regulations on civil procedural law provisions, should be applied. (Maksudi & Hufon&Hadi, 2021)

In Indonesia, forced money is used when a defendant refuses to comply with a final court order that has the force of law; in Thailand, forced money is used when a final court order requires the defendant to pay a sum of money or deliver goods and includes an order to do or not to do an act related to an administrative contract. Thailand is more likely than Indonesia to adopt coerced monetary practices. (Jiwantara & Hasanah, 2021).

The PTUN decision's implementation challenges have at least two major ramifications. To begin, the State Administrative Court has little clout and public support. The credibility of the judicial system as a whole was bolstered by this development. Despite the passage of time, the public still lacks faith in official institutions like the courts. The PTUN decision has issues in its execution, which really generates legal doubt for the prevailing party, making the second scenario more likely. The prevailing party is awarded his "rights" in accordance with the Administrative Court's ruling, but because the Administrative Court's ruling has not been put into effect, the win is purely academic (Khairo, 2017). This state of affairs is another evidence of bureaucrats' scant respect for the law. As a result, the State Administrative Court's authority must be strengthened by instituting the Contempt of Court arrangements.

There are three possible approaches to making it a crime for TUN officials to disobey injunctions from the People's Tribunal of the United Nations (PTUN), the first of which is to amend the Law on State Administrative Court by inserting a paragraph about the threat of punishment for State Administrative officials who disobey injunctions from the PTUN. secondly, by amending the Criminal Code to include contempt of court for willful defiance of a court order. Finally, a court contest law was enacted to (Nadiyya, 2022).

This is in line with the rationale provided in Article 4, Paragraph 4 of Law No. 14 of 1985 Regarding the Supreme Court: "Furthermore, in order to be able to guarantee the best possible atmosphere for the administration of justice to uphold law and justice based on Pancasila, it is also necessary to enact a law which violates the prosecution of the making, behavior, attitude, and or remarks that can humiliate and undermine the authority, dignity, and honor of the judiciary known as the A definition is provided in addition to the terms' introductions.

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Access to justice for citizens whose cases have been allowed can be ensured by the establishment of criminal law policies through the punishment of TUN officials who do not comply with the implementation of PTUN rulings. The principle of *ultimum remedium*, which states that criminal law is used as a last resort when other legal remedies (administrative and civil) are exhausted to teach legal protection certainty, supports the use of Contempt of Court actions against TUN officials who do not comply with the TUN Court's decision.

5 Conclusions

Following the perfection of Law no. 5 of 1986 pertaining to the State Administrative Court through Law no. 9 of 2004 and Law no. 51 of 2009, implementation of the State Administrative Court's decision demonstrates a fixed exelcultion system, with legal consequences handed over to State Administrative officials who do not implement the State Administrative Court's decision, such as compensation or repayment (forced), and/or administrative sanctions. If the official still refuses to comply, the state

administrative court's chief justice may submit the case to the president, the highest authority in the land, who must then order the official to carry out the decision of the state administrative court. This process begins with the Registrar notifying the local printed mass media of the decision (article 116 paragraph 5).

Presidential intervention in the implementation of decisions made by state administrative courts is very necessary since it is not as easy for state administrative officials to implement such decisions as it is for general courts. There are obstacles to the efficient implementation of rulings from state administrative courts due to the absence of an executorial institution, the indifference of PTUN officials toward TUN court orders, and the inactivity of the Instrument for Implementing Forced Money.

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