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The Principle Erga Omnes and Legal Certainty in the Execution of Administrative Court Decisions

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Abstract

This study analyzes the binding force of Administrative Court decisions on administrative bodies that are not formally parties to the dispute, as well as the legal implications of non-compliance with these decisions on the certainty of the employment status of civil servants. The research method used is normative legal analysis with a regulatory, conceptual, and case-based approach. The results of the study show that PTUN decisions that have permanent legal force are res judicata and have erga omnes binding force, thereby creating a normative obligation for all administrative authorities to implement them, even if they were not directly involved in the litigation process. Ignoring these decisions creates legal uncertainty that is contrary to the principle of legal certainty in the General Principles of Good Governance. This finding emphasizes the importance of progressive interpretation of the binding force of administrative court decisions and encourages administrative authorities to comply with decisions that have permanent legal force and provide legal mechanisms for aggrieved parties to effectively demand legal certainty.

Keywords: Erga omnes; Legal Certainty; Administrative Court; Execution of judgments.

INTRODUCTION

In the Indonesian legal system, one of the instruments for upholding administrative justice is the State Administrative Court (PTUN), which has the authority to review and resolve disputes between citizens and public administration officials.[1] Every court decision that has permanent legal force (*inkracht van gewijsde*) is final and binding as a form of legal certainty, so that all parties, including government agencies, are

[1] Muh. Ali Masnun, Dicky Eko Prasetio, Eny Sulistyowati, Mohd Badrol Awang, "Reconstructing Indonesia's Trademark Registration System through the Lens of General Principles of Good Governance to Realize Substantive Justice," *Journal of Law and Legal Reform* 5, no. 3 (2024): 891–912.

obliged to comply with it.[2] The implementation of PTUN decisions in practice often faces complex obstacles. Decisions that are legally final and binding are often not effectively implemented at the implementation level due to regulatory limitations, weak institutional support, and low compliance among officials who are supposed to implement these decisions. The issue of the execution of PTUN decisions is often referred to as quaestio vexata, which is an issue that continues to be debated and has not yet found an effective solution.[3] This condition shows that without certainty of implementation, court decisions only remain a formality without providing real relief.

The complexity of administrative law enforcement is evident in the case of nine civil servants in East Kutai Regency who were found guilty of committing acts defined as criminal acts of corruption in the legislation. The nine civil servants, namely Ahmadi, S.T., Andi Sulpadli, Durrahman, S.E., Andriyani, S.E., Hermansyah, S.E., Awang Ari Jusnanta, S.Sos., Raden Irawan Prasetya Adi, S.T., Shinta Fhensylavia Prihastuty, S.T., and Rusdiyanto, S.E., were legally and convincingly found guilty of the criminal act of "aiding and abetting corruption" and were sentenced to one year in prison. The defendants were not proven to have committed the criminal acts as charged in the primary indictment, but were only proven guilty through the alternative (secondary) indictment. The nine civil servants have served their sentences and, after their release, have been reinstated as civil servants and even received civil service benefits such as promotions and periodic salary increases.

The situation changed after the issuance of the Joint Decree of the Minister of Home Affairs, the Minister of Administrative and Bureaucratic Reform, and the Head of the State Civil Service Agency Number 182/6597/SJ, Number 15 of 2018, and Number 153/KEP/2018 dated September 13, 2018 (Joint Decree of Three Ministers), which mandates the dishonorable dismissal of civil servants proven to have committed criminal acts related to their positions based on a court decision that has permanent legal force, as well as the imposition of sanctions on civil service officials who fail to implement these provisions. Based on this policy, the State Civil Service Agency (BKN) instructed civil service officials at the central and regional levels to implement the Joint Decree, which then served as the basis for the Regent of East Kutai to issue a decision on the dishonorable dismissal of Ahmadi, S.T., et al.

Ahmadi, S.T., et al. objected to the decision and took legal action by filing a lawsuit with the Samarinda Administrative Court (PTUN), in which each plaintiff filed a case individually, rather than collectively. The PTUN's decision is now legally binding (inkracht). In the nine rulings, the Panel of Judges declared the Regent's Decree invalid and ordered its revocation, as well as requiring the rehabilitation of the plaintiffs' rights and the restoration of their positions as civil servants as before. The East Kutai

[2] Dicky Eko Prasetio et al., "The Construction Of The Lex Sportiva Principle In Indonesia's Sports Law: Implications And Future Arrangements," *UUM Journal of Legal Studies* 16, no. 2 (July 31, 2025): 58–69, https://e-journal.uum.edu.my/index.php/uumjls/article/view/24580.

[3] Firzhal Arzhi Jiwantara, "Hambatan-hambatan pelaksanaan putusan PTUN dalam sengketa perangkat desa di Kab. Lombok timur," *JPPI (Jurnal Penelitian Pendidikan Indonesia)* 10, no. 1 (February 2024): 1, https://doi.org/10.29210/020232037.

Regency Government has followed up on the ruling requiring the Defendant to rehabilitate the Plaintiffs by restoring their rights and status as civil servants to their original conditions by reinstating Ahmadi, S.T., et al. as civil servants. The East Kutai Regency Government has also submitted the files of Ahmadi, S.T., et al. to the Education and Training Civil Service Agency for processing. Subsequently, the files were forwarded by the BKPP to the BKN through Letter Number 800/025/BKPP/SIAK - AA/II/2020 regarding the submission of the East Kutai Regency Head's Decree on the reinstatement of Ahmadi, S.T., et al. as civil servants, who had previously been removed from the database.[4]

The State Civil Service Agency (BKN) through Letter Number FII-26-30/KOL 37-7/55 stated in its response that Ahmadi, S.T., and friends were proven to have committed criminal acts of corruption through a court decision that had permanent legal force (inkracht van gewijsde) and based on Law -Law Number 5 of 2014, so that the reactivation of the Employee Identification Number (NIP) that had previously been deleted from the database cannot be carried out, and requested the reissuance of a letter of dishonorable dismissal to the nine civil servants concerned.[5]

In response to this issue, the Regent of East Kutai then submitted a request for a legal opinion to the Ministry of Home Affairs. The Ministry of Home Affairs, through Letter Number 180/216/legal bureau, argued that Article 87 paragraph (4) letter d of Law Number 5 of 2014 could not be applied to Ahmadi, S.T., et al. because the court's verdict only imposed a sentence of 1 (one) year in prison and a fine, while the minimum criminal requirement is two (2) years. Thus, the East Kutai Regency Government is still obliged to implement the verdict of the Samarinda Administrative Court based on the principles of justice and legal certainty.[6]

Based on these circumstances, legal certainty regarding the status of civil servants Ahmadi, S.T., and colleagues has not been fully realized, as the State Civil Service Agency (BKN) has not reactivated their Employee Identification Numbers (NIP). This situation creates legal uncertainty and contradicts the principle of legal certainty and the Principles of Good Governance (AUPB), which require government agencies to comply with final and binding court decisions.[7] Failure to implement these rulings undermines public trust in the legal system and weakens the rule of law, potentially hindering the public from seeking justice through the State Administrative Court.[8]

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[4] Pemerintah Kabupaten Kutai Timur, "Penyampaian Persyaratan Pengaktifan Kembali Dalam Sistem Aplikasi Pelayanan Kepegawaian (SPAK) Badan Kepegawaian Negara," 2020.

[5] Badan Kepegawaian Negara, "Pengaktifan Kedudukan Hukum A.n. Ahmadi, ST, Dkk (7 Orang)," 2020.

[6] Kementrian Dalam Negeri, "Permintaan Pendapat Hukum," 2021.

[7] Abdur Rahim et al., "Relevansi Asas Kepastian Hukum dalam Sistem Penyelenggaraan Administrasi Negara Indonesia," *JIIP - Jurnal Ilmiah Ilmu Pendidikan* 6, no. 8 (August 2023): 5806–11, https://doi.org/10.54371/jiip.v6i8.2575.

[8] Ahmad Rayhan and Sakti Krisna Wijaya, *Efektifitas Pengadilan Tata Usaha Negara dalam Menyelesaikan Putusan Sengketa Tata Usaha Negara*, 1 (2023).

Previous studies on administrative law generally focus either on the execution of Administrative Court decisions or on the principle of legal certainty within the framework of good governance. However, limited attention has been given to examining the erga omnes effect as a binding normative mechanism that obligates administrative bodies that are not parties to the dispute, such as the State Civil Service Agency, to comply with final and binding Administrative Court decisions.

Previous studies on administrative law generally focus either on the execution of Administrative Court decisions or on the principle of legal certainty within the framework of good governance, but rarely examine the erga omnes effect as a binding normative mechanism for non-litigant administrative bodies.

Based on this research gap, this study examines the authority of the State Civil Service Agency in implementing Administrative Court decisions despite not being a defendant, as well as the legal consequences of failing to reactivate the Employee Identification Number following a final and binding Administrative Court decision, reviewed from the principle of legal certainty within the framework of the General Principles of Good Governance (AUPB). Accordingly, this research is entitled "Erga Omnes and Legal Certainty in the Execution of Administrative Court Decisions".

RESEARCH METHODS

This research is a normative legal study using a regulatory approach, a conceptual approach, and a case approach. The legal materials used consist of primary legal materials in the form of legislation and decisions of the Samarinda Administrative Court (PTUN), and secondary legal materials including books, articles, doctrines, scientific journals, research results, and relevant papers. The collection of legal materials was carried out through literature study as the main method in this normative legal research.[9] This research is prescriptive in nature, which aims to provide an overview and formulate legal issues based on existing facts and circumstances.[10]

RESULTS AND DISCUSSION

A. Erga Omnes as a General Binding Principle in Administrative Law

Conceptually, Koesoemahatmadja defines the Administrative Court as an institution authorized to adjudicate purely administrative cases and also handle civil disputes arising as a consequence of administrative actions by the government.[11] This definition is in line with the normative provisions in Article 4 of Law Number 5 of 1986 concerning Administrative Courts, which confirms the position of this institution as the executor of judicial power tasked with providing justice for the community in administrative disputes.

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[9] Muh Ali Masnun, Dicky Eko Prasetio, and Maalikatussofa, *Reconstruction of the Normative Legal Research Paradigm in Responding to Global Challenges: An Epistemological Analysis*, 12, no. 3 (2025).
[10] Wiwik Sri Widiarty, *Metode Penelitian Hukum* (Publika Global Media, 2024).
[11] Sri Wahyuni Ermawati, "Kewenangan Atau Kompetensi Peradilan Tata Usaha Negara (PTUN) Atas Subyek Sengketa Di Indonesia," *JUSTICES: Journal of Law* 3, no. 1 (March 2024): 47–57, https://doi.org/10.58355/justices.v3i1.7.

The Administrative Court has the authority and function to examine, decide, and resolve disputes between the government and citizens or legal entities that arise as a result of actions by administrative officials that are deemed to violate the rights and interests of the parties concerned.[12] The Administrative Court was established to provide protection to the people by serving those seeking justice in the field of administrative law, particularly against government decisions that are contrary to the law and detrimental to the community.[13]

A judge's decision or court ruling is a means of resolving a case through the application of the law to the facts of the trial in order to achieve legal certainty and justice for the parties.[14] A court ruling can be said to have permanent legal force if no party files a further legal action or objection to the ruling with a higher court. In other words, a decision is considered final if both parties to the dispute accept the decision handed down by the judge. The binding force of this decision is known in Latin legal terms as "res judicata pro veritate habetur," which means that the decision is automatically binding.[15]

The binding force of a court decision is known as the principle of res judicata pro veritate habetur, which means that every judge's decision must be considered correct and binding from the moment it is handed down, regardless of whether or not there are material errors. Black's Law Dictionary defines res judicata as a case that has been finally decided by a court and cannot be re-examined. In Indonesian legal practice, this principle is also understood by Sudikno Mertokusumo, who states that a judge's decision remains legally binding and must be considered valid as long as it has not been overturned by a higher court.[16]

In this case, nine Administrative Court decisions have obtained permanent legal force (inkracht), because no party has filed further legal remedies such as appeals or cassation. After the judge has handed down a decision that has permanent legal force, all parties involved in the case are obliged to comply with and implement the contents of the decision.[17]

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[12] Dian Aries Mujiburohman, *Hukum Acara Peradilan Tata Usaha Negara* (STPN Press, 2022).
[13] Muten Nuna et al., "Kewenangan Penyelesaian Sengketa Tata Usaha Negara Terhadap Putusan Pemberhentian Tidak Dengan Hormat," *University Of Bengkulu Law Journal* 5, no. 2 (October 2020): 106–18, https://doi.org/10.33369/ubelaj.5.2.106-118.
[14] Anik Iftitah et al., "Pengantar Ilmu Hukum," PT Sada Kurnia Pustaka, 2023.
[15] Kus Rizkianto, "Contempt of Court bagi Pejabat Negara yang tidak Melaksanakan Putusan Tata Usaha Negara," *SALAM: Jurnal Sosial dan Budaya Syar-i* 8, no. 3 (May 2021): 679–86, https://doi.org/10.15408/sjsbs.v8i3.20717.
[16] Didit Wijayanto Wijaya, "Pertentangan Asas Res Judicata Pro Veritate Habetur Dengan Asas Presumption Of Innocence Dalam Peradilan Pidana," *IBLAM Law Review* 5, no. 1 (January 2025): 15–24, https://doi.org/10.52249/ilr.v5i1.546.
[17] Muhammad Reza Faturahman and Pratama Herry Herlambang, "Tinjauan Yuridis Pelaksanaan Eksekusi Putusan Pengadilan Tata Usaha Negara yang Telah Berkekuatan Hukum Tetap," *Jurnal Hukum Jurisdictie* 7, no. 1 (March 2025): 116–25, https://doi.org/10.34005/jhj.v6i2.171.

Based on the Samarinda Administrative Court's decision, the panel of judges ordered the Defendant to revoke the Administrative Decision (KTUN) that was the subject of the dispute. The implementation of this order is based on Article 116 paragraph (2) of Law Number 5 of 1986. This provision stipulates that the execution of the decision shall be carried out after a period of four months has passed since the decision obtained permanent legal force and a copy was delivered to the Defendant, as stipulated in Article 116 paragraph (1). If the Defendant does not carry out the revocation obligation within that period, the disputed KTUN legally loses its binding force.[18]

The Samarinda Administrative Court's ruling essentially stated that the East Kutai Regent's decision was invalid and ordered its revocation, as well as requiring the Defendant to "rehabilitate and restore the Plaintiff's rights and position as a Civil Servant to their original state." The verdict emphasizes that the restoration of rights and civil servant status is a legal obligation of government officials after the verdict becomes final and binding (inkracht).

In compliance with the verdict, the Regent of East Kutai then issued a Decree on the Reactivation of the Civil Servant Status of the nine civil servants. The East Kutai Regency Government submitted the files of Ahmadi, S.T., et al. to the State Civil Service Agency to reactivate their employment data in SAPK. The Civil Service Application System (SAPK) is one of the programs developed by the State Civil Service Agency (BKN). This system includes various modules, such as civil service identification, procurement processes, promotions, retirement, data update mechanisms, and applications related to organizational units and civil service formations. SAPK is designed not only as an administrative tool but also as a solution to improve the quality of public services.[19]

The State Civil Service Agency then submitted an objection through an official letter addressed to the East Kutai Regency Government. The BKN's letter of objection essentially emphasized that the seven civil servants in question had been convicted of participating in corruption based on a court decision that had permanent legal force, so that based on the provisions of Law Number 5 of 2014, they must be dismissed without honor and their civil servant status cannot be restored through the activation of SAPK data. The BKN also stated that the Regent of East Kutai had implemented the verdict of the Samarinda Administrative Court by revoking or canceling the East Kutai Regent's Decree, which was the subject of the dispute. In addition, it can be seen that

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[18] Basuki Kurniawan, "Hakikat Penyanderaan (Gijzeling) Sebagai Alat Paksa Badan Bagi Pejabat/ Pejabat TUN Untuk Melaksanakan Putusan Peradilan Tata Usaha Negara Dalam Menciptakan Keadilan Administrasi," *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara dan Hukum Administrasi Negara* 1, no. 1 (December 2023): 295–322, https://doi.org/10.55292/nkwtw993.

[19] Sevina Tri Cahyaningrum and Taufiq Rahman Ilyas, *Implementasi Sistem Aplikasi Pelayanan Kepegawaian (SAPK) Dalam Pengajuan Pensiun Di Kabupaten Malang*, 16, no. 10 (2022).

the BKN also requested that the Regent of East Kutai reissue the Decree of Dishonorable Dismissal against these civil servants as a form of enforcement of the applicable laws and regulations.

This is where the difference in interpretation arises between the local government's obligation to execute the Administrative Court's decision and the BKN's stance in responding to the reinstatement of the civil servants' employment status. In principle, the regent has executed the decision by reinstating the nine civil servants in question. This is in line with the provisions of East Kutai Regent Regulation Number 48 of 2021 concerning Procedures for Imposing Sanctions on Civil Servants within the Local Government, specifically Article 21 paragraph (2) which stipulates that the Civil Service Supervisory Official (PPK) has the authority to make decisions to reactivate ASNs, and with this decision, the employees concerned are entitled to regain all their civil service rights in accordance with the provisions of the applicable laws and regulations.

The Regent does not have the authority to reactivate blocked Employee Identification Numbers (NIP), as this authority lies with the State Civil Service Agency (BKN) in accordance with the provisions of the laws and regulations. This is regulated in BKN Regulation Number 1 of 2023 concerning the Blocking of Civil Service Data and/or Civil Service Services in the State Civil Service Information System (SI-ASN), which in Article 1 point 14 states that:

> "The unblocking of civil service data and/or civil service services is an action taken by the State Civil Service Agency to unblock civil service data and/or services on the SIASN."

Therefore, the Regent, in his position, can only provide a letter of recommendation or statement to the BKN so that the NIPs of these civil servants can be reactivated, considering that the authority to take such action fully rests with the BKN as the agency authorized to manage the national civil service system.

This difference in opinion then prompted the Regent of East Kutai to seek a legal opinion from the Ministry of Home Affairs. Through letter No. 180/216/Biro Hukum, the Ministry of Home Affairs clarified that based on the court's decision on criminal corruption, the civil servants were sentenced to 1 (one) year in prison and a fine, thus not meeting the provisions of Article 87 paragraph (4) of Law No. 5 of 2014, which states that:

"(4) Civil servants shall be dismissed without honor for:

a. committing fraud against Pancasila and the 1945 Constitution of the Republic of Indonesia;

b. being sentenced to imprisonment or confinement based on a court decision that has permanent legal force for committing a criminal offense related to their position and/or a general criminal offense;
c. becoming a member and/or administrator of a political party; or
d. being sentenced to imprisonment based on a court decision that has permanent legal force for committing a criminal offense with a minimum imprisonment of 2 (two) years and a criminal offense committed with premeditation."

As stipulated in Article 87 paragraph (4), the requirements for dishonorable dismissal as referred to in Article 87 paragraph (4) letter d are not met, because the nine civil servants were only sentenced to 1 (one) year imprisonment. However, the provision in letter d explicitly requires a criminal sentence with a minimum prison term of 2 (two) years.

Regardless of the revocation and replacement of Law Number 5 of 2014 by Law Number 20 of 2023 concerning the Civil Service, the provisions of Law Number 5 of 2014 in the case in question remain relevant for application. This is because all events and proceedings in the case occurred while Law No. 5 of 2014 was still in effect, so the norms therein remain the binding legal basis.

In line with this, East Kutai Regent Regulation No. 48 of 2021 concerning Procedures for Imposing Sanctions on Civil Servants in the Local Government also provides the same regulation. Article 20 letter d states that if the defendant of a criminal offense can be reactivated as a civil servant if the person concerned is detained at the examination level and according to a court decision that has the force of law, is found guilty of a criminal offense with a prison sentence of less than 2 (two) years for committing a criminal offense that was not premeditated, thus rendering the BKN's reason for not reinstating the civil service data legally irrelevant.

In the field of administrative law, decisions of the State Administrative Court (PTUN) are understood to have erga omnes effect. This understanding arises because administrative disputes are public law disputes that are directly related to the exercise of governmental authority by Administrative Agencies or Officials. As a result, PTUN decisions are not only binding on the parties to the dispute, but also extend to other parties affected by the administrative decision or action. This occurs because both the subject (subjectum litis) and the object of the dispute (objectum litis) fall within the realm of public law, so that PTUN rulings often contain orders that are not only addressed to the parties to the case but also to other interested parties.[20]

[20] Dzikry Gaosul Ashfiya and Dwi Gustiani Fazsah Siregar, "Mempertanyakan Sifat Final Dan Mengikat Putusan Pengadilan Tata Usaha Negara Dalam Sengketa Proses Pemilihan Umum," *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara dan Hukum Administrasi Negara* 1, no. 1 (December 2023): 559–98, https://doi.org/10.55292/caztmy98.

This means that the decision not only considers the interests of the parties to the case, but also takes into account the broader impact on society. Its validity is binding on the parties to the case as well as other related parties (erga omnes)[21] and must be complied with in order to ensure administrative order and legal certainty in the administration of government.

One of the issues that often arises in administrative law is the low level of compliance with court decisions. Even though the decision is clear and binding, it is not uncommon for government agencies to not implement it properly. This situation gives rise to a pattern of repeated violations. Therefore, the application of the erga omnes principle is important to emphasize that all parties, including the government, are obliged to comply with court decisions. Without such compliance, justice is difficult to achieve and public trust in the legal system may weaken.[22]

A concrete example of the application of the erga omnes principle can be found in Decision Number: 86/G/TF/2022/PTUN.SMG. Drs. H. Masykur Ridwan as the plaintiff against the Governor of Central Java as the first defendant and the Regional Secretariat of the Central Java Provincial Government as the second defendant. The plaintiff, as the holder of land rights in the form of Letter C Number 1057 parcel 93 of 1963 in the name of Hj. Katimah Badriyah, was harmed by the issuance of Certificate of Use Number 12/Mangkang Kulon in the name of the Central Java Provincial Government, which was later revoked based on the Semarang Administrative Court Decision Number 026/G/2016/PTUN. Smg up to the level of Review and followed up by the Decree of the Head of the Central Java BPN Regional Office Number 07/Pbt/BPN-33/VI/2020, so that the Central Java Provincial Government's title to the land no longer has legal force.

The Plaintiff has requested the removal of assets whose legal basis has been revoked by the National Land Agency, but until the lawsuit was filed, there has never been a reasonable and appropriate response from Defendant I, so that the obligation to remove assets by Defendant I and Defendant II has not been carried out and the Plaintiff has not obtained land title registration services in accordance with the provisions of laws and regulations. Based on Decision No. 86/G/TF/2022/PTUN. SMG, the Semarang Administrative Court granted the Plaintiff's lawsuit in part, declaring the actions of Defendant I and Defendant II to not remove the former assets of Certificate of Use Number 12/Mangkang Kulon from the List of Regional Property to be invalid, and requiring the Defendants to remove the assets and pay court costs.

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[21] lita Lianti, Fiorentina Elfrida Shanty, And Windha Puji Astuti, "Peran PTUN Dalam Eksekusi Putusan Yang Berkekuatan Hukum Tetap Sebagai Langkah Efektif Penyelesaian Sengketa TUN," *YUSTISI* 10, no. 2 (June 2023): 76–86, https://doi.org/10.32832/yustisi.v10i2.14325.

[22] Firdaus Arifin, "Efektivitas Putusan Erga Omnes dalam Mengatasi Pelanggaran Hukum Tata Usaha Negara," *UNES Law Review* 6, no. 4 (2024).

The Panel of Judges at the Semarang Administrative Court provided the following legal considerations:

> "Considering that, unlike civil disputes, where civil court decisions are only binding on the parties to the case, Administrative Court decisions, in accordance with the principle of erga omnes, are not only binding on the parties to the dispute, but also apply to parties outside the dispute. The consequence of this erga omnes principle is that the law of causality applies to parties related to the implementation of Administrative Court decisions;
>
> Considering that with the cancellation of Right of Use certificate number 12 (see evidence P-4 to P-9, P-10=T. II-5), then based on causality under the principle of erga omnes, the public, especially public agencies or officials, must comply with it by taking logical actions in accordance with legal causality, including in this case the Defendant I and Defendant II taking action to remove the former assets of Right of Use Certificate Number 12 of Mangkang Kulon Village, Tugu Subdistrict, dated February 15, 1989, situation drawing Number 8513/1987, dated 30-12-1987, area ± 5,450 m2, on behalf of the Provincial Government of Central Java Cq. the Public Works Agency from the List of Regional Property of Central Java Province, considering that the Certificate has been canceled and revoked (vide evidence P-4 to P-9, P-10=T.II-5);"

Based on the points considered by the panel of judges, it can be concluded that the Administrative Court's decision not only has legal consequences for the parties to the case, but is also binding and must be complied with by all related parties, including agencies and/or public officials who have a legal relationship with the subject matter of the dispute. The cancellation of Right of Use Certificate Number 12, in terms of legal causality, gives rise to an administrative obligation for Defendant I and Defendant II to adjust the legal situation to the factual situation, namely by removing assets originating from the canceled certificate from the Central Java Provincial Property List, as a direct consequence of the application of the erga omnes principle. The application of the erga omnes principle as reflected in the Semarang Administrative Court Decision Number 86/G/TF/2022/PTUN.SMG shows that the decision of the Administrative Court has general binding force.

This jurisprudence has legal force as an unwritten source of law that can be used as a basis for considering the application of the erga omnes principle in the case of Ahmadi, S.T., et al., because the decision of the Samarinda Administrative Court has general binding force that is not only binding on the Regent as the Defendant, but also other agencies involved in the civil service administration process, including the State Civil Service Agency (BKN). This is because the nature of the Administrative Court's decision is public, so that the BKN has the authority to execute decisions that have permanent legal force.

The verdict ordering the rehabilitation and reinstatement of the plaintiffs as civil

servants cannot be fully implemented without adjustments to the national civil service system, which is under the authority of the BKN. Although the BKN is not a defendant, the obligation to implement the verdict still applies because the Administrative Court's verdict has binding force in general (erga omnes). Therefore, the erga omnes validity of the verdict is the basis that all government organs related to the subject matter of the dispute are required to adjust their administrative actions, even if they are not listed as parties in the case. This characteristic means that the Administrative Court's decision is not only binding on the parties to the case, but also has binding force on other parties outside the dispute.[23]

There is no need to include a ruling that explicitly orders certain parties, whether directly involved in the case or not participating in the trial, to comply with the court's decision.[24] The obligation to comply with the decision remains in force because the decision has general binding force, so that its effectiveness does not depend on the existence of specific instructions in the dictum to certain parties.

B. Legal Certainty and the Obligation to Execute Administrative Judgments

The Employee Identification Number, hereinafter referred to as NIP, is an official identification number assigned to every Civil Servant as a form of identification in the personnel administration system. Based on the provisions of Article 3 of the Regulation of the Head of the State Civil Service Agency Number 22 of 2007 concerning Civil Servant Identification Numbers, it can be understood that NIP has the status of a mandatory identification mark attached to every Civil Servant. Paragraph (2) explains that the NIP functions as a tool for the administration of government to record and manage personnel data, including employment status, rank, position, and work history. The existence of the NIP is the basis for the government in organizing personnel administration in an orderly and structured manner, so that the accuracy and validity of personnel data can be guaranteed.[25]

The Employee Identification Number (NIP) is an administrative identity that plays an important role in the civil service system because it not only functions as an official identification, but also as a means of career guidance and development. Possession of an NIP means that civil servants are officially registered in the state civil service system, giving them a legal basis to participate in competency development programs such as continuing education and special training to improve their performance and

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[23] Ainuddin and Sarkawi, *Hukum Acara Peradilan Tata Usaha Negara* (Pustaka Bangsa (Anggota IKAPI), 2021).

[24] Mario Viano Rasi Wangge, Anak Agung Sagung Laksmi Dewi, and Ni Made Sukaryati Karma, "Intervensi dalam Pemeriksaan Sengketa Tata Usaha Negara," *Jurnal Preferensi Hukum* 2, no. 2 (June 2021): 300–305, https://doi.org/10.22225/jph.2.2.3325.300-305.

[25] Dealls, "Apa Itu NIP? - Format, Fungsi, Dan Cara Ceknya!," *Dealls Jobs*, 2025, https://dealls.com/pengembangan-karir/nip-adalah#apa-itu-nip?

contribution to government administration. As a legal identity, the NIP is the basis for all civil service administration processes, including leave requests, promotions, and job transfers. All civil service records, such as length of service, career progression, performance achievements, and disciplinary violations, are recorded and traced based on the Civil Service Identification Number. The process of paying salaries and various allowances to civil servants is also based entirely on the validity of the NIP.

The Employee Identification Number (NIP) is only valid as long as a person has the status of a Civil Servant and is no longer used if the person has lost that status, except for pension administration purposes. The NIP is the main basis for the pension administration process because all civil servant pension services and rights can only be processed after identity verification through the relevant NIP. The NIP also functions as an identification number in the civil servant security and insurance system, facilitating the fulfillment of protection rights when needed, as all employment data is recorded in an integrated and accurate manner in the state administration system. The existence and activation of the NIP determine the fulfillment of civil servant employment rights in their entirety.

The activation of the Employee Identification Number is a prerequisite for the implementation of civil service functions as stipulated in Article 3 of the Regulation of the Head of the State Civil Service Agency Number 22 of 2007 concerning Civil Servant Identification Numbers. In the case of Ahmadi, S.T., et al., this prerequisite was not fully met because the Employee Identification Number was not activated even though civil service status had been restored.

Salaries and allowances as civil servants continue to be paid by the local government even though the Employee Identification Number has not been activated, because Ahmadi, S.T., et al. have been declared active again as civil servants based on the Decree on the reactivation of civil servant status by the Regent of East Kutai and have carried out their duties as civil servants within the East Kutai Regency Government.

The non-activation of the Employee Identification Number has resulted in the Employee Identification Number not functioning as the basis for civil service administration and career development. As a result, civil service data is not legally recorded, so that the process of promotion and appointment cannot be carried out in accordance with applicable civil service regulations. The inactivation of the Employee Identification Number also has an impact on the fulfillment of pension services, social insurance, and welfare savings for Ahmadi, S.T., et al. Civil servants who have met the pension requirements do not receive pension rights, and social insurance and savings services cannot be implemented as long as the Employee Identification Number has not been activated.

Article 44 paragraph (1) letter f of the Regulation of the Civil Service Agency of the Republic of Indonesia Number 3 of 2020 concerning Technical Guidelines for the Dismissal of Civil Servants stipulates that the Civil Service Supervisory Official shall issue a decision to reactivate the Civil Servant along with the restoration of their civil service rights. This provision serves as the basis that the reactivation of Civil Servants should be followed by the fulfillment of all civil service rights, so that the reactivation of Civil Servant status is not merely a formality.

The non-reactivation of the Employee Identification Number results in the Employee Identification Number not functioning fully. The fulfillment of civil service rights is limited to the provision of salaries and allowances, while other functions related to status certainty, career development, and welfare guarantees cannot be implemented as stipulated in civil service regulations. This situation creates legal uncertainty because the decision of the State Administrative Court, which has permanent legal force, is not implemented administratively as stipulated in the applicable laws and regulations.

Legal certainty is the hope of the community, especially those seeking justice in the face of potential arbitrary actions by government officials. Legal certainty is realized through the formulation of good and clear legal norms, both in terms of the legal basis, the subjects and objects regulated, and the legal consequences that arise. In the context of administrative cases, the lack of clarity of the legal basis for a decision has the potential to cause harm to the public and can be grounds for revoking the decision because it contradicts the principle of legal certainty.[26]

The principle of legal certainty is one of the General Principles of Good Governance (AUPB) regulated in Law Number 30 of 2014 concerning Government Administration. As stipulated in the explanation of Article 10 paragraph (1) letter a, the principle of legal certainty is interpreted as a principle that emphasizes the need for every government action to be carried out based on strict, consistent rules that are in line with propriety and a sense of justice, so as not to cause doubt in its application.

Theoretically, the principle of legal certainty is also understood through the views of legal experts. Gustav Radbruch defines legal certainty as a situation in which the law functions as a set of rules that must be obeyed and implemented by every legal subject. In Radbruch's view, the law must provide clear, firm, and predictable norms so that it can serve as a guideline for behavior and does not give rise to diverse interpretations (multiple interpretations).[27]

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[26] Fibri Amilio, "Penerapan Asas Kepastian Hukum Dalam Hukum Agraria Terhadap Pembatalan Sertifikat Cacat Administratif (Studi Putusan No 81/G/2023/PTUN.SBY)," *Judge : Jurnal Hukum* 6, no. 03 (August 2025), https://doi.org/10.54209/judge.v6i03.1550.

[27] Yuli Ningtiyas, *Kepastian Hukum Dalam Pembagian Warisan Atas Tanah Pada Masyarakat*, 13, no. 5 (2025).

This view is in line with the opinion of Fence M. Wantu, who asserts that law loses its meaning if it is not accompanied by certainty. Without legal certainty, legal norms cannot function optimally as guidelines for behavior, both for government administrators and for the community. The principle of legal certainty not only serves as protection for citizens, but also as an instrument to control power so that government actions are not arbitrary.[28]

Legal certainty provides assurance to the public that administrative actions taken by the government can be clearly understood, and their legal consequences can be predicted rationally.[29] This condition not only creates a sense of security but also builds public trust in transparent government administration.[30]

The failure of the BKN to activate the NIP of Ahmadi, S.T., et al. despite the existence of a court decision with permanent legal force is a violation of the principle of legal certainty, because it creates uncertainty in personnel administration and hinders the fulfillment of personnel rights, thereby causing legal consequences for Ahmadi, S.T., et al.

C. Non-Execution as an Unlawful Administrative Action

Normatively, the legal system provides a protection mechanism for civil servants to reject or challenge decisions that harm their rights and interests. However, in practice, not all civil servants have the courage, support, or adequate legal understanding to utilize this protection mechanism. Ahmadi, S.T., et al. can pursue legal remedies through two channels, namely non-litigation and litigation. The choice of resolution path is made by considering the nature of the problem and the objectives to be achieved.

Ahmadi, S.T., et al. can request assistance from the Indonesian Civil Service Corps Legal Consultation and Assistance Agency (LKBH KORPRI) in the form of organizational assistance and legal consultation, both before and outside the judicial process, as stipulated in Article 62 paragraph (1) of Law Number 20 of 2023 concerning State Civil Servants. This assistance is intended as a form of support so that Ahmadi, S.T., et al. do not have to face legal problems independently from the initial stage, so that they do

[28] Siti Halilah And Mhd Fakhrurrahman Arif, "Asas Kepastian Hukum Menurut Para AhlI," *Siyasah: Jurnal Hukum Tata Negara* 4 (2021).
[29] Bayangsari Wedhatami Dicky Eko Prasetio, Muh Ali Masnun, "Legal Uncertainty of Golf Game as Sports and Entertainment Branch in Local Tax Imposition," *Wawasan Yuridika* 4, no. 1 (2024): 76–93.
[30] Dino Rizka Afdhali and Taufiqurrohman Syahuri, "Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum," *Collegium Studiosum Journal* 6, no. 2 (December 2023): 555–61, https://doi.org/10.56301/csj.v6i2.1078.

not immediately have to seek legal assistance themselves or use the services of a lawyer at a relatively high cost.[31]

The legal measures that can be taken by Ahmadi, S.T., et al. in facing the actions of the BKN include filing a complaint with the Ombudsman of the Republic of Indonesia and filing a lawsuit with the State Administrative Court. Non-litigation measures that can be taken by Ahmadi, S.T., et al. in response to the actions of the State Civil Service Agency are to file a complaint with the Ombudsman of the Republic of Indonesia. This complaint is filed to assess the alleged maladministration in the actions or services carried out by government officials that have the potential to harm the civil service rights of civil servants.

Indonesian Ombudsman Regulation Number 58 of 2023 concerning Procedures for Examining and Resolving Reports regulates various forms of maladministration in the delivery of public services. The Civil Service Agency's failure to activate the Employee Identification Numbers of Ahmadi, S.T., et al. despite the issuance of a Decree activating their civil servant status can be classified as a form of maladministration.

As stated in Article 5, maladministration committed by the BKN is categorized as negligence or disregard of legal obligations and procedural deviations because the BKN did not carry out the administrative obligations mandated by the Samarinda Administrative Court decision, which has permanent legal force. The BKN's failure to reactivate the NIP of Ahmadi, S.T., et al. to date can be classified as a prolonged delay that has resulted in legal uncertainty for Ahmadi, S.T., et al. as civil servants. This action violates the general principles of good governance (AUPB) and can therefore also be classified as an unlawful act.

As a public service oversight agency, the Ombudsman plays an important role in protecting the public, including civil servants, from actions by state officials that are detrimental or disregard service rights. The existence of the Ombudsman also provides a legitimate and orderly channel for resolution, so that the public does not channel their disappointment through anarchic actions or taking the law into their own hands.[32]

Reports submitted are then followed up by the Ombudsman through an investigation process to assess the validity of the alleged maladministration. In exercising its authority, the Ombudsman is independent and impartial, assessing each report based

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[31] Mia, "Terbentuknya LKBH KORPRI BKN Sebagai Tindakan Preventif & Perlindungan Hukum Pegawai BKN," *BKN*, 2025, https://www.bkn.go.id/terbentuknya-lkbh-korpri-bkn-sebagai-tindakan-preventif-perlindungan-hukum-pegawai-bkn/.

[32] Nurlita Purnama et al., "Kinerja Ombudsman Republik Indonesia Perwakilan Jakarta Raya Dalam Menangani Pengaduan Penerimaan Peserta Didik Baru Di Kota Depok," *Terang : Jurnal Kajian Ilmu Sosial, Politik dan Hukum* 1, no. 1 (February 2024): 108–25, https://doi.org/10.62383/terang.v1i1.70.

on applicable legal provisions.[33] The Ombudsman acts as a liaison between the people as the holders of sovereignty and the government as the executor of the mandate of power.

A complaint to the Ombudsman of the Republic of Indonesia can be used as a first step by Ahmadi, S.T., et al. against the actions of the State Civil Service Agency that have harmed his civil service rights. This effort can be pursued before determining further legal action based on the results of the investigation conducted by the Ombudsman. If, during the Ombudsman's investigation, maladministration is found and the recommendations given are not implemented by the relevant agencies, the aggrieved party still has the right to pursue legal action through the judicial mechanism in order to obtain effective legal protection.

Government actions arise from the government's desire to respond to the circumstances faced by the community. Government decisions or actions that cause harm to citizens or civil law entities provide a legal basis for filing a lawsuit with the State Administrative Court as a means of protecting legal interests and realizing the human rights of every person.[34]

Since the enactment of Law Number 30 of 2014 concerning Government Administration, there has been a shift in the absolute authority to adjudicate unlawful acts by the government. Before the enactment of this law, disputes concerning unlawful acts by the authorities were under the jurisdiction of the District Court. However, after the enactment of Law Number 30 of 2014, this authority was transferred to the absolute competence of the Administrative Court, including against factual actions carried out by government officials. As emphasized in Law Number 30 of 2014 concerning Government Administration, namely in Article 87 letter a, which states that: "written stipulations also include factual actions". Based on the provisions of Article 87 letter a, the expansion of the meaning of administrative disputes has resulted in the expansion of the jurisdiction of the Administrative Court, which not only assesses written decisions but also includes the examination of factual actions of government officials or agencies.

In the Government Administration Law, factual actions are only mentioned in Article 87 of the Government Administration Law and there is no clear definition of factual actions. However, the term used is administrative actions as defined in Article 1 point 8 of the Administrative Government Law, which states that:

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[33] Aprilia Wahyu Wulandari, Nina Widowati, And Ari Subowo, *MANAJEMEN PENGADUAN MASYARAKAT DI OMBUDSMAN REPULIK INDONESIA PERWAKILAN PROVINSI JAWA TENGAH DI KOTA SEMARANG*, 13, no. 2 (2024): 1–10.

[34] Stephanie Angela Penu, Jeffry A Ch Likadja, and Yohanes G Tuba Helan, *Perluasan Kompetensi Pengadilan Tata Usaha Negara Dalam Mengadili Tindakan Faktual Pemerintah*, 8, no. 12 (2024).

> "Administrative actions, hereinafter referred to as Actions, are acts performed by government officials or other state administrators to perform and/or refrain from performing concrete acts in the context of government administration."

The provisions of Article 1 point 8 explain that what is meant by Administrative Government Actions are actions taken by Government Officials or other state administrators in carrying out government functions, both in the form of active actions and in the form of not taking action.

As a follow-up to the enactment of the Government Administration Law, the Supreme Court of the Republic of Indonesia issued Supreme Court Regulation 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 (Onrechtmatige Overheidsdaad), namely in Article 1 paragraph 3 which reads:

> "A dispute over government actions is a dispute that arises in the field of government administration between citizens and government officials or other state administrators as a result of the implementation of Government Actions."

Based on the provisions of Article 1 paragraph 3, disputes over government actions arise when citizens have a dispute with government officials or other state administrators as a result of the implementation of government actions. The term "government action" refers to any act by a government official or other state administrator, whether it involves performing or refraining from performing a concrete act in the context of government administration, as stipulated in Article 1(1) of Perma No. 2 of 2019.

The position of factual actions as the subject of dispute in the Administrative Court is reinforced in jurisprudence, one example being the Bandung Administrative Court Decision Number 60/G/TF/2022/PTUN-BDG between H. Agus Suratman, et al. and the Head of Pasirjambu Village, et al. In the case in question, the object of the lawsuit was the action of the Head of Pasirjambu Village in deleting Parcel 20 D.II covering an area of 635 da (six hundred and thirty-five deka are) with the phrase "dipake ka Desa" (used by the village) on Letter C/Kohir Number 780 in the name of Aisah Ny. H. B. Umar in the Pasirjambu Village Book. The plaintiff considered that this action had resulted in the loss of the plaintiff's rights to the land.

The Panel of Judges at the Bandung Administrative Court provided the following legal considerations:

> "Considering that based on the description of the above articles in relation to the object of the dispute a quo, it is indisputable that the factual action constitutes an administrative decision that can be challenged in the State Administrative

Court, and the object of the dispute is the factual action taken by the Defendant, whose jurisdiction falls within the jurisdiction of the State Administrative Court;

Considering that, based on all of the above legal considerations, the Panel of Judges concluded that the Defendant's factual actions, namely the deletion of Parcel 20, D.II, area: 635 da (six hundred and thirty-five decares), Kohir No. 780, in the name of Aisah Hj.bt H. Umar in the Letter C Book of Pasirjambu Village with the phrase "used by the Village", Pasirjambu Village, Pasirjambu District, Bandung Regency, is an unlawful act;"

Based on the points of consideration of the panel of judges, the factual action can be made the subject of a dispute in the State Administrative Court. By linking the applicable legal provisions to the subject matter of the dispute, the Panel of Judges emphasized that the factual action taken by the Defendant falls within the absolute authority of the State Administrative Court to examine and decide. The Panel of Judges concluded that the Defendant's factual action of deleting land data in the Letter C Book of Pasirjambu Village was an unlawful act because it was carried out without a valid basis of authority and caused damage to the Plaintiff's rights.

Factual actions (feitelijke handelingen) are concrete acts carried out by the government in the administration of government. These actions take the form of active and passive acts. The main characteristic of factual actions is their unilateral and one-sided nature (eenzijdige), because they arise from the will of the government without requiring the consent of other parties. Therefore, factual actions fall within the realm of public law and can be assessed based on state administrative law and become the authority of the State Administrative Court. Conversely, if a legal action is bilateral, then the action tends to fall within the realm of civil law or a legal action that is a mixture of public law and civil law.[35]

The benchmark for a factual action to be considered the subject of a dispute in the Administrative Court is the existence of legal consequences experienced by individuals or civil law entities. Such losses must be proven in court proceedings so that the officials or state administrative agencies that carried out the actions in question can be held legally accountable for their actions.[36]

Ahmadi, S.T., et al. have the right to file a lawsuit with the State Administrative Court against the actions of the State Civil Service Agency. The lawsuit can be filed with the object of the lawsuit being the factual actions of the State Civil Service Agency, namely the failure to reactivate the Employee Identification Number by the BKN

[35] Ibid.
[36] Nur Rohman, "Problematika Hukum Penyelesaian Tindakan Faktual Dan/Atau Perbuatan Melawan Hukum Oleh Pemerintah Sebagai Obyek Sengketa Di Pengadilan Tata Usaha Negara (Studi Kasus : Putusan Nomor 26/G/TF/2020/PTUN.SMG, Putusan Nomor 99/G/2020/PTUN-JKT, Dan Putusan Nomor 230/GTF/2019/PTUN-JKT)," Universitas Islam Indonesia Yogyakarta, 2023.

even though there has been a final and binding decision by the State Administrative Court.

The actions of the BKN have resulted in legal consequences in the form of the non-fulfillment of the civil service rights of Ahmadi, S.T., et al. as civil servants, including civil servant career development, pension services, social insurance services, savings services, civil service administration management, and other services that are beneficial to civil servants. The BKN has also violated legal provisions and the general principles of good governance, particularly the principle of legal certainty.

CONCLUSION

The authority of the State Civil Service Agency and the Regent in the state civil service system constitutes a single administrative unit of the state civil service that is interrelated. The BKN has national authority in the management and control of the civil service, while the Regent, as the Civil Service Supervisory Official, exercises delegated authority to determine the appointment, transfer, and dismissal of civil servants, as well as to carry out civil service management development within the local government. The decision of the State Administrative Court, which has permanent legal force, must be implemented in its entirety as a manifestation of the principle of res judicata pro veritate habetur. In the case of Ahmadi, S.T., et al., the BKN remains obliged to adjust and carry out administrative actions in accordance with the PTUN's decision even though the BKN is not a plaintiff or defendant in the case. This is because PTUN decisions have erga omnes effect because they are public in nature, so they are binding not only on the parties to the case, but also on all government organs related to the subject matter of the dispute.

The legal consequences of the Civil Service Agency's failure to reactivate the Employee Identification Number (NIP) following the final and binding decision of the State Administrative Court have created legal uncertainty for Ahmadi, S.T., et al. The deactivation of the NIP has resulted in the non-fulfillment of the civil service rights of Ahmadi, S.T., et al. as civil servants, including career development, pension services, social insurance, savings, and civil service administration. This condition shows that the Administrative Court's decision has not been implemented administratively and is contrary to the principle of legal certainty in the General Principles of Good Governance as stipulated in Law Number 30 of 2014 concerning Government Administration. The recommendation from this study is that the State Civil Service Agency should implement the Administrative Court's decision, which has permanent legal force, administratively based on the principles of res judicata pro veritate habetur, erga omnes, and the provisions of applicable laws and regulations, in order to guarantee legal certainty for Ahmadi, S.T., et al. as civil servants. For Ahmadi, S.T., et al., it is advisable to actively coordinate with LKBH KORPRI to resolve the issue of NIP activation that has been blocked by BKN and to take legal action by filing a complaint with the Ombudsman to obtain a recommendation for NIP activation to BKN or filing a lawsuit with the State Administrative Court against BKN's factual actions in accordance with the provisions of the legislation.

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