



Validity of the Governor of East Java's Discretion in Determining the 2025 Minimum Wage: A Legal Analysis under Indonesian Government Administration Law

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Abstract

The determination of the 2025 Regency/City Minimum Wage (UMK) in East Java Province attracted significant attention from the perspective of administrative law after the Governor of East Java established minimum wages that did not fully comply with the calculation formula stipulated in the Minister of Manpower Regulation Number 16 of 2024. The policy was justified on the basis of administrative discretion considering regional economic conditions and business sustainability, and subsequently became the subject of litigation before the State Administrative Court, culminating in Decision Number 65/B/2025/PT.TUN.SBY of the Surabaya State Administrative High Court. This study aims to examine the validity of the Governor's exercise of discretion under Law Number 30 of 2014 concerning Government Administration. This normative legal research applies statutory and case approaches. Primary, secondary, and tertiary legal materials are analyzed using prescriptive legal reasoning. The findings indicate that the Governor's exercise of discretion failed to satisfy the legal requirements because there was neither a legal vacuum nor governmental stagnation justifying the use of discretion. Furthermore, the Governor's decision conflicted with statutory regulations, violated the General Principles of Good Governance, and deviated from the objectives of discretion stipulated in Articles 22 and 24 of Law Number 30 of 2014. The Surabaya State Administrative High Court reaffirmed that the Governor's authority in determining the UMK constitutes bound authority (*gebonden bevoegdheid*), thereby preventing deviations from the nationally prescribed wage formula through discretionary power. This study contributes to the development of Indonesian administrative law by clarifying the legal limits of administrative discretion in regional governance.

Keywords: Validity, Discretion, Minimum Wage, Administrative Law

INTRODUCTION

Determination of Regency/City Minimum Wage (UMK) is one of The government's strategic policy in the field of employment that aims to ensure The fulfillment

of workers' rights to a decent income while maintaining The continuity of the business world. In the national salvage system, the governor is given authority to determine UMK every year based on norms, mechanisms, and the formula that has been determined in the laws and regulations. Because of that, the governor's decision regarding the establishment of UMK not only has economic consequences, but also a government administrative action which must meet the validity requirements in accordance with the provisions of administrative law Country.

The government issued a regulation of the Minister of Manpower Number 16 Years 2024 as a national guideline in determining the minimum wage. That regulation determines the calculation formula that must be used as a basis by the governor in determining the Provincial Minimum Wage as well as the Regency/City Minimum Wage.¹ The arrangement aims to create uniformity in policy implementation. Wage throughout Indonesia so that legal certainty is realized, protection Towards workers, and a conducive business climate.

Legal problems arose when the Governor of East Java set wages Minimum Regency/City in 2025 through the Decree of the Governor of East Java Number 100.3.3.1/775/KPTS/013/2024² which according to his party is a form Discretion as a basis for consideration so that the amount of UMK that is determined is not Fully follow the formula as specified in the Ministerial Regulation Employment Number 16 Year 2024.³ The policy creates a difference Interpretation of the limit of discretionary use in the implementation of Government. On the one hand, discretion is seen as an instrument that allows Government officials to adjust policies to concrete conditions in the region. On the other hand, the use of discretion is questioned because it is done against authority which has been clearly regulated by laws and regulations so that raises questions about the validity of the governor's action.

Law Number 30 of 2014 concerning Government Administration Provide space for government officials to use discretion in Certain circumstances, namely when laws and regulations give a choice, Not regulated, incomplete or unclear, nor when stagnation occurs Government. However, the use of discretion cannot be done freely. Article 22 and Article 24 of Law Number 30 of 2014 requires that discretion Must be in accordance with the purpose of giving, not contrary to the rules Laws and regulations, in line with the General Principles of Good Governance, Based on objective reasons, does not cause conflicts of interest, and Done with good faith.⁴ Thus, discretion is an instrument Complementing the principle of legality, not being a way to rule out legal norms Which has clearly regulated the implementation of an authority. The implementation must also be responsible and not arbitrary.

¹ Peraturan Menteri Ketenagakerjaan Nomor 16 Tahun 2024 Tentang Penetapan Upah Minimum Tahun 2025.

² Surat Pengantar SK Gubernur Jawa Timur Tentang UMK Jawa Timur Tahun 2025, Kepala Biro Hukum Sekretariat Daerah Prov. Jawa Timur.

³ Peraturan Menteri Ketenagakerjaan Nomor 16 Tahun 2024 tentang Penetapan Upah Minimum Tahun 2025.

⁴ Undang-Undang (UU) Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Differences in views regarding the understanding of the formula size Then developed into a state administration dispute. Through The Verdict Surabaya State Administrative Court Number 11/G/2025/PTUN.SBY which Then reinforced by the Surabaya State Administrative High Court Decision Number 65/B/2025/PT.TUN.SBY, the panel of judges stated that the use of Discretion by the Governor of East Java does not meet the requirements as regulated In Law Number 30 of 2014 concerning Government Administration.⁵ The judge's legal consideration shows that the governor's and regulations so that there are no conditions that justify Discretionate use. The decision becomes important because it emphasizes ba Discretionary use of binding authority (gebonden bevoegdheid) In the implementation of local government.

Various studies on discretion in government administration law has been done with a diverse focus. Some studies examine discretion as an instrument of government implementation that is needed to guarantee the effectiveness of public services when laws and regulations have not been regulated completely or there is a government stagnation. Other research by Sarah et.al in His research entitled "Discretion of Administrative Officials in Public Service Against Discretion Limitations and Supervision" which mentions discretion as The form of public service has positive and negative dimensions at the same time.⁶ Other than that, there is also Luthfi Ansori in his research entitled "Discretion and Government Responsibility in Government Implementation" which highlights the relationship between the use of discretion and the accountability of officials of the Government if the action taken causes legal consequences for society.⁷ On the other hand, Akhmad Junaedi with his research entitled "Implementation of Wage Policy in Micro and Small Enterprises"⁸ and Arrista Trimaya with her research entitled "Imposition of Minimum Wage in National Remuneration System To Improve The Welfare Of The Workforce" Studying the wage more directed towards the aspect of worker protection, The mechanism of determining the minimum wage, as well as the dynamics of industrial relations after The implementation of Law Number 6 of 2023 and its implementation regulations.⁹ Discussion about the governor's authority in setting the Minimum Wage Regency/City is generally still focused on the division of authority between Central government and local government as well as the implementation of the salary policy National. The approach provides an overview of the pay system in Indonesia, but has not specifically linked the governor's authority with

⁵ Putusan Nomor 11/G/2025/PTUN.SBY.

⁶ Sarah Adinda Putri et al, "Diskresi Pejabat Administrasi Dalam Pelayanan Publik Terhadap Batasan Dan Pengawasan Diskresi," *Lex Stricta: Jurnal Ilmu Hukum* 4, No. 1 (2025): 33-42, <https://doi.org/https://doi.org/10.46839/lexstricta.v4i1.1427>.

⁷ Ansori Lutfil, "Diskresi Dan Pertanggungjawaban Pemerintah Dalam Penyelenggaraan Pemerintahan," *Jurnal Yuridis* 2, No. 1 (2015): 134-150, <https://doi.org/https://doi.org/10.35586/.v2i1.165>.

⁸ Akhmad Junaedi, "Implementasi Kebijakan Pengupahan Pada Usaha Mikro Dan Kecil," *Jurnal Ketenagakerjaan* 13, No. 1 (2018): 41-56, <https://journals.kemnaker.go.id/index.php/naker/article/view/20/10>.

⁹ Arrista Trimaya, "Pemberlakuan Upah Minimum Dalam Sistem Pengupahan Nasional Untuk Meningkatkan Kesejahteraan Tenaga Kerja," *Aspirasi: Jurnal Masalah-Masalah Sosial* 5, No. 1 (2014): 11-20, <https://doi.org/https://doi.org/10.46807/aspirasi.v5i1.448>.

Parameters of the validity of the use of discretion as stipulated in the Law Number 30 of 2014 concerning Government Administration.

Joni Sandri Ritonga et al in their research entitled "The Application of the Principle- The General Principle of Good Governance in State Administrative Justice Decisions" Discuss the implementation of the General Principles of Good Governance as a benchmark Testing of state administrative actions. The results of the study show that AUPB is an important instrument in assessing whether a decision Administration has been carried out carefully, proportionally, and in accordance with the purpose Granting authority.¹⁰ However, the discussion is still Conceptual and has not specifically tested the use of discretion in determining The reward policy that has become the object of dispute in the Tata Court environment State Business. Based on the development of the research, it can be known that The discussion of discretion, the governor's authority, and the wage policy is still carried out separately. No research has been found that integrates These three aspects in one analysis framework to assess the validity The use of discretion by the Governor of East Java in determining the Minimum Wage Regency/City in 2025, especially by making a Court Decision Surabaya State Administration High School Number 65/B/2025/PT.TUN.SBY as an object Main analysis. In fact, the decision has an important meaning because it gives A stricter limit regarding the use of discretion to the authority that The implementation has been regulated in detail by laws and regulations.¹¹

Starting from these conditions, this study offers a perspective that Different by placing the validity of the use of discretion as the main focus Analysis. This research not only examines whether the Governor of East Java has Authority to set the Regency/City Minimum Wage, but also assess Whether the use of discretion in the implementation of the authority has fulfilled Requirements specified in Article 22 and Article 24 of Law Number 30 Year 2014 about Government Administration. Analysis is done through testing Towards the aspects of authority, procedure, substance of the decision, and its suitability With the General Principles of Good Governance and legal considerations in Surabaya State Administrative High Court Decision Number 65/B/2025/PT.TUN.SBY. The approach is expected to provide contribution to the development of government administrative law, especially in formulating the parameters of the validity of the use of discretion in authority which is bound (gebonden bevoegdheid).¹²

This research aims to analyze the validity of the use of discretion By the Governor of East Java in determining the Minimum Wage of the Regency/City of the Year 2025 based on the provisions of Law Number 30 of 2014 about Government Administration, as well as analyzing the legal implications of Court Decisions Surabaya State

¹⁰ Joni Sandri Ritonga et al., "Penerapan Asas-Asas Umum Pemerintahan Yang Baik Dalam Putusan Peradilan Tata Usaha Negara," *Case Law: Journal of Law* 6, no. 1 (2025): 1-12, <https://doi.org/https://doi.org/10.25157/caselaw.v6i1.4731>.

¹¹ Salinan Putusan Nomor 65/B/2025/PT.TUN.SBY.

¹² Undang-undang (UU) Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.

Administration College Number 65/B/2025/PT.TUN.SBY against the limit The use of discretion in the implementation of local government.

RESEARCH METHODS

This research is a normative legal study aimed at analyzing the validity of the Governor of East Java's use of discretion in determining the 2025 Regency/City Minimum Wage based on the provisions of governmental administrative law.¹³ The research was conducted using a statutory approach, a conceptual approach, and a case approach. A legislative approach is used to examine the provisions governing the governor's discretion and authority in setting the minimum wage, specifically Law Number 30 of 2014 concerning Government Administration, Law Number 23 of 2014 concerning Regional Government, Government Regulation Number 51 of 2023 concerning Wages, and Minister of Manpower Regulation Number 16 of 2024 concerning the Determination of the 2025 Minimum Wage. A conceptual approach is used to analyze the concepts of authority, discretion, the legitimacy of government actions, and the General Principles of Good Governance (AUPB). A case study approach is used to examine the legal considerations in the Surabaya State Administrative Court Decision Number 11/G/2025/PTUN.SBY, which has been upheld by the Surabaya High State Administrative Court Decision Number 65/B/2025/PT.TUN.SBY. The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and court decisions related to the research object, while secondary legal materials consist of books, scientific articles, and journals discussing government administrative law, discretion, government authority, and wage policy. Tertiary legal materials include legal dictionaries and other sources supporting the explanation of legal terms. Legal materials were collected through literature study, then analyzed qualitatively using prescriptive methods through interpretation of legal norms and synchronization between statutory provisions, doctrine, and judges' legal considerations to obtain arguments regarding the legitimacy of the Governor of East Java's use of discretion in determining the 2025 Regency/City Minimum Wage.

RESULTS AND DISCUSSION

A. Discussion Regarding the Legitimacy of the Governor of East Java's Use of Discretion in Determining the 2025 Regency/City Minimum Wage

The legitimacy of government actions is a fundamental principle in state administrative law, ensuring that every decision or action by government officials is carried out based on legitimate authority, follows established procedures, and complies

¹³ Maalikatussofa Masnun, Muh. Ali, Prasetyo, Dicky Eko, "Reconstruction of the Normative Legal Research Paradigm in Responding to Global Challenges: An Epistemological Analysis," *Novum: Jurnal Hukum* 12, no. 3 (2025): 372-84, <https://doi.org/https://doi.org/10.26740/novum.v12i03.74364>.

with statutory provisions.¹⁴ This principle is a manifestation of the principle of legality (*rechtmatigheid van bestuur*), which requires that every government action have a clear legal basis, thereby providing legal certainty and protecting citizens' rights.¹⁵ Therefore, the use of discretion by government officials cannot be separated from testing against the requirements of legitimacy as stipulated in Law Number 30 of 2014 concerning Government Administration.

In the case of determining the 2025 Regency/City Minimum Wage (UMK), the Governor of East Java issued Gubernatorial Decree No. 100.3.3.1/775/KPTS/013/2024, basing his policy on discretion. This policy has sparked debate because the UMK determination did not strictly follow the formula stipulated in Minister of Manpower Regulation No. 16 of 2024. The legal issue that arose did not lie in the governor's authority to determine the UMK, but rather in whether the use of discretion met the legal requirements under Law No. 30 of 2014 concerning Government Administration.

1. Testing of the Provisions of Article 22 of Law Number 30 of 2014

Article 22 of Law Number 30 of 2014 stipulates that discretion may only be exercised to facilitate the administration of government, fill legal vacuums, provide legal certainty, or overcome governmental stagnation under certain circumstances for the benefit and public interest.¹⁶ This provision demonstrates that discretion is not an authority that can be freely exercised by government officials, but rather a legal instrument of exceptional authority. Therefore, before assessing the validity of the use of discretion, it must first be analyzed whether the conditions underlying the use of discretion truly meet the requirements stipulated in Article 22.

a. Absence of a Legal Vacuum

One justification for the use of discretion is the existence of a legal vacuum, a situation where a government issue is not regulated by legislation, so government officials require freedom of action to ensure the continuity of government administration. A legal vacuum should be understood as the absence of norms that can serve as a basis for resolving a problem, not

¹⁴ Bayangsari Wedhatami Dicky Eko Prasetyo, 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, <https://doi.org/https://doi.org/10.25072/jwy.v8i1.4369>.

¹⁵ Syofyan Hadi & Tomy Michael, "Prinsip Keabsahan (*Rechtmatigheid*) Dalam Penetapan Keputusan Tata Usaha Negara," *Jurnal Cita Hukum* 5, No. 2 (2017): 383–400, <https://doi.org/10.15408/jch.v5i2.7096>.

¹⁶ Undang-undang (UU) Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.

simply a difference of opinion regarding the application of existing norms.¹⁷

In determining the 2025 Minimum Wage (UMK), such a situation was not found. The government issued Government Regulation Number 51 of 2023 concerning Wages as an implementing regulation of Law Number 6 of 2023, which was further elaborated through Minister of Manpower Regulation Number 16 of 2024 concerning the procedures and formula for determining the minimum wage. Both regulations comprehensively regulate the calculation parameters, the determination mechanism, and the governor's authority in setting the UMK.

These clear regulations demonstrate that there is no legal vacuum that can be used as a basis for the use of discretion. All stages of determining the minimum wage (UMK) have a clear normative basis, providing the governor with adequate legal guidance in exercising his authority. Therefore, the requirement to "fill a legal vacuum" as referred to in Article 22 of Law Number 30 of 2014 is not met.

b. No Unclear Legal Norms

In addition to filling legal gaps, discretion in government administrative practices can also be used when applicable legal norms are incomplete or unclear, thus creating difficulties in their implementation.¹⁸ However, unclear norms cannot be interpreted as government officials disagreeing with the content of a regulation. Norms can only be considered unclear if there is ambiguity or a regulatory gap that renders the provision inapplicable.

In this case, the formula for determining the 2025 Minimum Wage (UMK) has been expressly determined through Minister of Manpower Regulation Number 16 of 2024, including the variables used in calculating the minimum wage. There are no provisions that are open to multiple interpretations or give the governor the discretion to determine a formula other than that established by the central government. Therefore, according to the au-

¹⁷ Iis Siti Atikah, "Yurisprudensi Sebagai Upaya Koreksi Terhadap Kekosongan Dan Kelemahan Undang-Undang," *YUDHISTIRA : Jurnal Yurisprudensi, Hukum Dan Peradilan* 1, No. 2 (2023): 61-69, <https://doi.org/10.59966/yudhistira.v1i2.1676>.

¹⁸ Celestial Darya Suryadi et al, "Batasan Penggunaan Diskresi Oleh Pejabat Tata Usaha Negara Dalam Keadaan Darurat," *JIHHP: Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, No. 4 (2026): 2677-2684, <https://doi.org/10.38035/jihhp.v6i4.8336>.

thor, there is no unclear norm that can be used as a basis for the use of discretion, and therefore this requirement is also not met.

c. Government Stagnation

Article 22 also permits the use of discretion to address government stagnation. Government stagnation is defined as a situation where government administration cannot proceed as intended due to obstacles that cannot be overcome through available legal mechanisms.¹⁹ The use of discretion in this situation is intended to ensure that public services and government functions can continue.

The legal facts surrounding the determination of the 2025 Minimum Wage indicate that the administrative process continues according to the established stages. Recommendations from the district/city government are still submitted to the governor, the Wage Council continues to hold discussions, and the governor's decisions are still issued within the specified timeframe. Thus, there is no government stagnation that impedes the exercise of the governor's authority. Differences of opinion regarding the amount of the minimum wage increase cannot be classified as government stagnation within the meaning of Article 22 of Law Number 30 of 2014.

Based on an analysis of these three elements, it is clear that the Governor of East Java's use of discretion does not meet the requirements stipulated in Article 22 of Law Number 30 of 2014 concerning Government Administration. The absence of a legal vacuum, the absence of unclear norms, and the absence of government stagnation indicate that the use of discretion in determining the 2025 minimum wage lacks a sufficient legal basis. Thus, the use of discretion has exceeded its basic function as an exceptional instrument in government administrative law.

2. Testing of the Provisions of Article 24 of Law Number 30 of 2014

In addition to fulfilling the objectives stipulated in Article 22, the use of discretion must also meet the requirements stipulated in Article 24 of Law Number 30 of 2014 concerning Government Administration. This provision stipulates that discretion may only be exercised if it meets six requirements: it aligns with the objectives of the discretion, does not conflict with statutory provisions, complies with the General Principles of Good Governance (AUPB), is based on objective reasons, does not give rise to a conflict of interest, and is

¹⁹ Ardhinur Bestari, "Kepastian Hukum Dan Tanggung Gugat Atas Diskresi" (BPK Perwakilan Provinsi Kalimantan Selatan, 2021).

carried out in good faith. These requirements are cumulative, so the failure to fulfill any one element can result in the invalidity of the use of discretion.

a. Conformity with the Purpose of Discretion

The purpose of granting discretion is essentially to provide space for government officials to resolve concrete problems that cannot be resolved through existing legal mechanisms. Discretion does not exist as a tool to harm statutory regulations, but discretion is born as a complementary tool to statutory regulations that cannot always reach and regulate all aspects of people's lives.²⁰

In the case of determining the 2025 Minimum Wage (UMK), this purpose is not clearly visible. The formula for determining the minimum wage has been fully regulated through Government Regulation Number 51 of 2023 and Minister of Manpower Regulation Number 16 of 2024. Therefore, there is no legal requirement that the governor use discretion as a resolution tool. According to the author, the use of discretion in this case actually changes the mechanism established by the regulatory body, thus contradicting the purpose of granting discretion as stipulated in Law Number 30 of 2014.

b. Not Contradicting Statutory Provisions

The second requirement requires that the use of discretion not conflict with statutory regulations. This provision is a manifestation of the principle of legality, a fundamental principle of government administration. Although government officials are given the freedom to exercise discretion, this freedom cannot be used to override existing legal norms.

In determining the 2025 Minimum Wage (UMK), Minister of Manpower Regulation Number 16 of 2024 stipulates the formula that governors must use to determine the minimum wage. The East Java Governor's decision to use discretion, resulting in a UMK that does not fully follow the national formula, indicates a deviation from this provision. According to the author, this condition results in the requirement as stipulated in Article 24 letter a of Law Number 30 of 2014 not being met because the use of discretion is exercised within an authority whose implementation is already regulated in detail by statutory regulations.

²⁰ Adi Kuncoro & Hananto Widodo, "Analisis Problematik Surat Edaran Bupati Tulungagung Terkait Pengaturan Penanggulangan Corona Virus Disease 2019 (Covid-19)," *Novum: Jurnal Hukum* 9, No. 3 (2022): 111-120, <https://doi.org/https://doi.org/10.26740/novum.v0i0.41871>.

c. Compliance with the General Principles of Good Governance (AUPB)

In addition to complying with laws and regulations, the use of discretion must also comply with the General Principles of Good Governance.²¹ In this case, there are three relevant principles as testing parameters: the principle of legal certainty, the principle of accuracy, and the principle of prohibiting abuse of authority. The principle of legal certainty requires that every government decision be issued based on clear and predictable legal provisions.²²

Deviations from the national formula for determining the minimum wage have the potential to create legal uncertainty by creating a gap between normative provisions and implementation in the field. As a result, workers, employers, and local governments no longer have certainty regarding the standards that should be used as guidelines for setting the minimum wage.

Furthermore, the principle of due diligence requires government officials to consider all legal facts and normative provisions before making decisions. In the context of determining the 2025 minimum wage, the use of discretion should be based on conditions that legally justify deviations from established mechanisms. However, as previously explained, there is no legal vacuum or governmental stagnation that could serve as a basis for the use of discretion. Therefore, according to the author, the use of discretion in this case does not reflect the optimal application of the due diligence principle.

Meanwhile, the principle of prohibiting abuse of authority requires that all authority be used in accordance with the purpose for which it was granted. The governor's authority to set the minimum wage (UMK) is granted within the framework of implementing national wage policies based on a government-established formula. When this authority is used to establish policies that deviate from the binding formula, it indicates that the authority is not being used in accordance with its stated purpose. Therefore, the use of discretion in this case potentially violates the principle of prohibiting abuse of authority.

²¹ Maulidin et al, "Penerapan Asas-Asas Umum Pemerintahan Yang Baik Dalam Pemberhentian Tidak Dengan Hormat Terhadap Anggota Polri," *Jurnal Suara Hukum* 5, No. 1 (2023): 68-88, <https://doi.org/10.26740/jsh.v5n1.p68.20-2088>.

²² Bagus Surya Dharma et al., "Harmonization of Laws Regulating the Formation of Village Government Work Plan Drafting Teams," *Ex Aequo Et Bono Journal Of Law* 2, no. 2 (January 31, 2025): 69-81, <https://doi.org/10.61511/eaebjol.v2i2.2025.1092>.

d. Based on Objective Reasons

Article 24 also requires that the use of discretion must be based on objective reasons. Objectivity means that decisions are made based on facts, data, and concrete circumstances that can be legally accounted for, not solely on the subjective judgments of government officials.²³

In this case, the rationale for using discretion was based on considerations of regional economic conditions and emerging aspirations during the process of determining the minimum wage.

Although these considerations have policy value, in the author's opinion, these conditions cannot be qualified as objective reasons justifying deviations from the provisions of Minister of Manpower Regulation Number 16 of 2024. This is because regional economic conditions have become one of the variables taken into account in the national formula and therefore cannot be used as a reason to override established mechanisms.

e. No Conflict of Interest

The next requirement is that the use of discretion must not give rise to a conflict of interest.²⁴ Based on the legal facts in this case, there is no evidence that the use of discretion was for personal gain, for a particular group, or to obtain any particular benefit for the official concerned. Therefore, the element of no conflict of interest can, in principle, be deemed fulfilled. However, the fulfillment of this element does not automatically render the use of discretion valid, as all the requirements in Article 24 are cumulative and must be met in their entirety.

f. Exercised in Good Faith

The final requirement is that the use of discretion must be exercised in good faith. Good faith reflects the intention to exercise authority for the public interest without the intention of abusing authority. In the case at quo, there is no indication that the Governor of East Java acted with

²³ Padia Susiana, "Penyalahgunaan Diskresi Pejabat Pemerintahan Sebagai Objek Sengketa Di Pengadilan Tata Usaha Negara," *Magistra Vitae: Journal Magister Hukum* 1, No. 2 (2025): 56-69, <https://e-journal.umaha.ac.id/magistrav/article/view/17221>.

²⁴ Tim JDIH BPK Perwakilan Provinsi DKI Jakarta, "Discretionary Power Atau Wederrechtelijk: Kewenangan, Batasan Diskresi Dan Penyalahgunaan Kewenangan Diskresi Penyebab Korupsi," *Tulisan Hukum*, 2019.

malice or for personal gain. The policy adopted was essentially intended to address the labor market conditions in the region.

However, according to the author, good faith cannot be used as a basis to justify the use of discretion if other normative requirements are not met. In administrative law, good intentions must still be demonstrated through actions that comply with statutory provisions.²⁵ Therefore, even if the element of good faith can be deemed fulfilled, this does not eliminate the legal flaws arising from the failure to fulfill other requirements as stipulated in Article 24 of Law Number 30 of 2014.

Based on examining all the requirements in Article 24, it can be concluded that the Governor of East Java's use of discretion in determining the 2025 Regency/City Minimum Wage does not meet the requirements for validity. Of the six requirements stipulated by law, only the absence of a conflict of interest and good faith are relatively met, while the requirements regarding the purpose of the discretion, compliance with statutory regulations, compliance with the General Principles of Good Governance, and objective reasons are not met. Thus, the use of discretion does not meet the cumulative requirements stipulated in Article 24 of Law Number 30 of 2014 concerning State Administration and therefore cannot be considered a legitimate government action.

B. Discussion Regarding the Legal Implications of the Surabaya High Administrative Court Decision No. 65/B/2025/PT.TUN.SBY on the Use of Discretion in Determining Regency/City Minimum Wages C. Dan seterusnya.

The Surabaya High Administrative Court Decision No. 65/B/2025/PT.TUN.SBY is crucial in providing certainty regarding the limits of discretion in government administration. Through this decision, the panel of judges upheld the Surabaya State Administrative Court Decision, which stated that the East Java Governor's Decree No. 100.3.3.1/775/KPTS/013/2024 violated statutory provisions because the use of discretion in determining the 2025 Regency/City Minimum Wage (UMK) did not meet the requirements stipulated in Law No. 30 of 2014 concerning Government Administration. The ruling not only resolved the dispute between the

²⁵ Eny Sulistyowati Muh. Ali Masnun, Dicky Eko Prasetyo, 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.

parties, but also provided guidelines regarding the limits of discretion by government officials in exercising their authority.²⁶

In its legal reasoning, the panel of judges first emphasized that the governor does have the authority to set the minimum wage (UMK) as stipulated in labor laws and regulations. However, this authority is not discretionary; rather, its implementation is determined by Government Regulation Number 51 of 2023 concerning Wages and Minister of Manpower Regulation Number 16 of 2024 concerning the Determination of the 2025 Minimum Wage. Therefore, the judges concluded that the governor remains bound by the mechanisms and formulas established in these two regulations, so that the use of discretion cannot be used as a basis for deviating from applicable provisions. These considerations demonstrate that the panel of judges places the principle of legality as the primary basis for testing the validity of government actions.

The authority to set the minimum wage does not automatically grant the governor the freedom to determine policy substance outside of the provisions established by the central government. As long as the mechanism for setting the minimum wage has been clearly regulated through legislation, the exercise of this authority must be carried out in accordance with applicable norms. Therefore, this decision confirms that the use of discretion cannot be justified against binding authority (*gebonden bevoegdheid*).

The panel of judges also considered that the requirements for the use of discretion as stipulated in Articles 22 and 24 of Law Number 30 of 2014 were not met. This consideration was based on the fact that the determination of the 2025 minimum wage has a clear legal basis, so there is no legal vacuum or state of government stagnation necessitates the use of discretion. Furthermore, the use of discretion is deemed to be in conflict with the provisions of Minister of Manpower Regulation Number 16 of 2024, which regulates the detailed formula for determining the minimum wage. Based on these considerations, the panel of judges declared that the use of discretion in the *a quo* case did not meet the requirements stipulated in the State Administration Law.

These legal considerations have important implications for the meaning of discretion in state administrative law. This decision confirms that discretion cannot be used to amend or override provisions that have been comprehensively regulated by statutory regulations.²⁷ The scope for the use of discretion is only open under the conditions stipulated in Article 22 of Law Number 30 of 2014, namely to address issues that cannot be resolved through available legal mechanisms. Thus, this decision clari-

²⁶ Salinan Putusan Nomor 65/B/2025/PT.TUN.SBY.

²⁷ Hananto Widodo et al., "Legal Implications of the Authority of Acting Regional Heads Based on Policy Regulations," *Indonesian Journal of Administrative Law and Local Government* 1, no. 1 (November 9, 2024): 65–81, <https://doi.org/10.26740/ijalgov.v1i01.35774>.

fies the boundary between bound authority and discretionary authority in government administration.²⁸

Another implication is the strengthened function of the State Administrative Court in overseeing the use of government administrative authority. In this case, the court does not assess whether the government's policy favors workers or employers, but rather examines whether the decision is issued in accordance with applicable administrative law.²⁹ This approach demonstrates that oversight by the State Administrative Court is oriented toward testing the legality of government actions so that any use of discretion remains within the law and does not develop into an abuse of authority.

This ruling also provides legal certainty for the implementation of future wage policies. The affirmation that governors must adhere to the mechanisms and formulas established in Government Regulation Number 51 of 2023 and Minister of Manpower Regulation Number 16 of 2024 will encourage uniformity in setting minimum wages across various regions. Furthermore, the ruling serves as a guideline for government officials that the use of discretion should be understood as an exceptional authority, not as a basis for overriding provisions that clearly regulate the exercise of authority.

Based on these overall considerations, the Surabaya High Administrative Court Decision Number 65/B/2025/PT.TUN.SBY provides legal implications in the form of affirming the application of the principle of legality in the use of discretion, limiting the use of discretion to binding authorities, and strengthening the function of the State Administrative Court as an oversight mechanism for government administrative actions.³⁰ This decision also serves as a guideline for government officials to ensure that the use of discretion is always carried out in accordance with the provisions of Law Number 30 of 2014 concerning Government Administration, ensuring that every administrative action ensures legal certainty and protects the rights of the public.

CONCLUSION

Based on the results of research and analysis of the legality of the 2025 Regency/City Minimum Wage (UMK) determination by the Governor of East Java from a State Administrative Law perspective, it can be concluded that the governor's authority to determine the UMK is a government authority whose implementation is not absolute but rather limited by applicable laws and regulations. In the context of determining the 2025 UMK, the Governor of East Java has attribution and delegation au-

²⁸ Undang-undang (UU) Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.

²⁹ Noviyanti Dicky Eko Prasetyo, Muh. Ali Masnun, Arinto Nugroho, Denial Ikram, "Discrimination Related to Labour Age Limitation in Indonesia : A Human Rights and Comparative Law Perspective," *Suara Hukum* 6, no. 2 (2024): 228-54.

³⁰ Salinan Putusan Nomor 65/B/2025/PT.TUN.SBY.

thority to determine wage policies in his region. However, this authority must be exercised based on the mechanisms and formulas stipulated in Minister of Manpower Regulation Number 16 of 2024. Therefore, this authority cannot be exercised freely based on policy considerations alone if it conflicts with binding legal provisions.

Based on an analysis of the Governor of East Java's use of discretion in determining the 2025 minimum wage increase of less than 6.5%, it can be concluded that this action does not meet the requirements for the use of discretion as stipulated in Articles 22 and 24 of Law Number 30 of 2014 concerning Government Administration. Although discretion provides government officials with the freedom to make decisions in certain circumstances not clearly regulated in laws and regulations, its use must still meet the limitations of the discretionary purpose, not conflict with laws and regulations, comply with the General Principles of Good Governance (AUPB), and be based on objective, accountable reasons. In the case of determining the 2025 East Java minimum wage, the increase formula determined by the central government through Ministerial Regulation Number 16 of 2024 provides clear guidelines, thus preventing any legal gaps that could be used as a basis for the use of discretion. Thus, the governor's actions are more accurately classified as deviating from established legal obligations, rather than as a legitimate form of discretion.

Furthermore, based on an analysis of the Surabaya Administrative Court Decision No. 11/G/2025/PTUN.SBY, which was later strengthened by the Surabaya High Administrative Court Decision No. 65/B/2025/PT.TUN.SBY, it can be concluded that the panel of judges was correct in assessing the legal flaws in the East Java Governor's decision regarding the 2025 Minimum Wage (UMK). The panel of judges considered that the governor's actions did not fulfill the elements of legitimate discretion because they contradicted higher-level regulations and were not based on objective reasons as required by the State Administration Law. This decision demonstrates that government authority must remain subject to the principle of legality, so that government officials cannot override applicable regulations for the sake of policy interests or specific circumstances without adequate legal basis. Furthermore, from the perspective of the General Principles of Good Governance (AUPB), the Governor of East Java's actions in determining the 2025 Minimum Wage (UMK) do not fully reflect the principles of legal certainty, accuracy, and the prohibition against abuse of authority. The exercise of government authority must ensure that every decision issued has a clear legal basis and aligns with the purpose for which the authority was granted.

The discrepancy between the governor's decision and the calculation formula stipulated in Minister of Manpower Regulation Number 16 of 2024 indicates a problem with legal certainty and administrative accuracy. Therefore, every government official, in exercising their authority, must ensure that the policies they establish not

only consider administrative interests but also adhere to the principles of good and responsible governance.

Based on the research results, the legal prescription that can be provided is that in establishing wage policies, regional governments, particularly governors, must prioritize the principle of legality as the primary basis for all government actions. Discretion can only be exercised if certain circumstances meet legal requirements and there are no regulations that clearly regulate the issue. If laws and regulations provide a definite mechanism, government officials are obliged to implement these provisions and cannot replace them with their own policy considerations, which could potentially lead to abuses of authority.

The suggestions and recommendations from this research are that the central government needs to provide clearer regulations regarding the limits of discretion in the wage sector to avoid differences in interpretation between the central government and regional governments. Furthermore, regional governments, particularly governors, when establishing policies related to workers' rights, must prioritize compliance with laws and regulations and the principles of the AUPB, and conduct a more in-depth legal review before issuing a decision. On the other hand, oversight mechanisms for the implementation of regional government authority need to be strengthened to ensure that every policy issued remains within the framework of state administrative law and provides legal protection for all affected parties.

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