

THE ROLE OF THE PRESIDENT IN THE IMPLEMENTATION OF PTUN DECISIONS IN THE PRESIDENTIAL SYSTEM

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ABSTRACT

The principle of the state of law requires that every court decision, including the State Administrative Court, be obeyed and implemented by state administrative officials. In the presidential system, the President has the authority to ensure compliance with court decisions as a form of supremacy and legal certainty. However, in practice, there are still many PTUN decisions that have not been implemented, showing the weak effectiveness of law enforcement. The phenomenon of Contempt of Court, such as disobedience to court decisions, is one of the main challenges in the implementation of the law. The purpose of this study is to examine the role of the President in ensuring the implementation of the PTUN decision in the presidential government system. This research uses a normative juridical method with regulations that regulate the authority of the President in the implementation of the State Administrative Court. Based on Article 116 of the PTUN Law, the President and the House of Representatives have a role in ensuring the compliance of state administrative officials with the PTUN decisions. Therefore, optimizing the role of the President is crucial in upholding the rule of law and ensuring legal certainty in the presidential system of government.

Keywords: *President, Implementation of Decrees, State Administrative Court, Presidential System of Government*

INTRODUCTION

Placing Indonesia in the design of a state of law has the consequence that in the process of implementing the government must be based on the law. I Dewe Gede Atmaja stated that the state of law is divided into two basic meanings, namely in the narrow sense (*the rule of law in the narrow sense*) is a state of law where all actions of state administrators are based on the constitution and principles of government

administration, while the broad meaning is the rule of law in broad sense to the testing of legal products in the form of laws and regulations¹. The original meaning of the state of law is also called *The Rule Of Law Not The Rule of Man* in the sense that a leadership or commander in a constitutional government is actually found in the rule of law, not in the person². Furthermore, in the state of law, it cannot be separated from the value and final presentation of the law itself, namely justice,

¹ Yopi Gunawan and Kristian, *Perkembangan Konsep Negara Hukum Dan Negara Hukum Pancasila* (Refika Aditama, 2015).

² Zulfahmi Nur, "Rekonstruksi Negara Hukum Dalam Paradigma Hukum Islam Dan Ketatanegaraan

Di Indonesia," *Misykat Al-Anwar Jurnal Kajian Islam Dan Masyarakat* 6, no. 1 (2023): 119–42, <https://doi.org/https://doi.org/10.24853/ma.6.1.119-142>.

utility, and certainty as inspired by Gustav Radbruch's classical theory³.

It is impossible if there is no judicial institution in the building of the state of law, if placed in the constitutional framework of a country that upholds the rule of law, then the role of the judicial institution is a necessity. The spirit of the founders of the state in choosing the state of law as a guide in carrying out constitutional work, requires a strong judicial institution and its decision becomes a reference for the work of the state administration system. Indonesia adheres to a system with a strict separation of powers, where there are three separation regions as inspired by Montesquieu in the classic literature *De L'Esprit de lois* (1748), the first legislative area with a law-making system with the character of the law that governs society. Second, the executive region as an implementation institution of the rules that have been made. The third region is called the judiciary as an institution for resolving tangled thread disputes between the community and the state⁴. The face of judicial power is reflected in the design of the Indonesian constitution, namely the presence of judicial power as an independent power and not easily trapped in the confines of executive and legislative orders. More interesting than other democratic countries such as the United States, Indonesia places the conception of judicial power in two complementary clusters, namely the Supreme Court and the Constitutional Court, while the United States only has the Supreme Court as

the executive face in the portrait of judicial power⁵.

The Supreme Court oversees the courts, including the general court. Religious courts, military courts and state administrative courts⁶. In relation to protecting the rights of the community due to the actions of state administrators that are contrary to the principles of welfare, the existence of a state administrative court is a condition that cannot be abolished within the framework of constitutional democracy. The problem that cannot be avoided in the implementation of a court decision is the disobedience of the subject of law to the object that has been decided by the court institution, this can be reflected in the disobedience of the acting administration to the judge's decision in the state administrative court (PTUN) environment⁷. For approximately 30 years of its existence, the PTUN has still not been able to protect the rights of the people because the execution of its decisions is still far from being roasted, in the end the PTUN is labeled as a judicial institution minus authority. Neglect or neglect of administrative court decisions that have obtained permanent legal force is one example of the inactivity of the court system⁸.

There are several variants that are the reason for the non-compliance with the decisions of the state administrative courts, namely a system built on moral obedience rather than juridical compliance, the lack of coercive instruments that the acting administration must have a juridical and

³ Aditya Andela Pratama, "Arah Politik Hukum Pembentukan Peraturan Perundang-Undangan: Progresifitas Atau Formalitas?," *BUNGA RAMPAI POLITIK HUKUM PERUNDANG-UNDANGAN*, 2024, 16.

⁴ Firman Yudhanegara et al., *Pengantar Filsafat Hukum: Sebuah Ontologi, Epistemologi, Dan Aksiologi Ilmu Hukum* (PT. Sonpedia Publishing Indonesia, 2024).

⁵ Hamid Chalid and Arief Ainul Yaqin, "Menggagas Pelembagaan Constitutional Question Melalui Perluasan Kewenangan Mahkamah Konstitusi Dalam Menguji Undang-Undang," *Jurnal Konstitusi* 16, no. 2 (2019): 363–90, <https://doi.org/https://doi.org/10.31078/jk1628>.

⁶ Ade Candra et al., "Efektivitas Sistem E-Berpadu Dalam Perkara Pidana Sebagai Upaya Mewujudkan Peradilan Cepat" 6, no. 3 (2024): 9278–83, <https://doi.org/https://doi.org/10.31933/unesrev.v6i3>.

⁷ Sri Iin Hartini and Yulianus Pabassing, "Penyelesaian Sengketa Tanah Ulayat Di Kampung Harapan Kabupaten Jayapura," *Jurnal Hukum Ius Publicum* 1, no. I (2020): 28–40, <https://doi.org/https://doi.org/10.55551/jip.v1i1.4>.

⁸ Riris Risnayanti Rahmat et al., "Implikasi Putusan Pengadilan Tata Usaha Negara Yang Telah Berkekuatan Hukum Tetap Terhadap Putusan ICSID," *Hukum Dinamika Ekselensia* 7, no. 1 (2025).

moral obligation to implement the decision, the ideal position of the plaintiff and the defendant so that it causes a lack of balance in implementing the PTUN decision where the plaintiff will remain dependent on the defendant who issued the decision state administrative decisions, and much more complicated is the lack of understanding of the acting administration about legal principles⁹. Law Number 5 of 1986 concerning PTUN was presented in order to resolve the tangled thread of the conflict of attitudes between the Government, namely TUN bodies/officials and its citizens, in this case, namely people or Civil Legal Entities, in the form of disputes that arise because as a result of the issuance of KTUN which is considered to collide and deviate from the rights of its citizens, namely people or civil legal entities. Thus, the PTUN is needed in order to provide protection to people seeking justice points who feel that they are disadvantaged due to a KTUN by TUN bodies/officials¹⁰.

In the building of a legal state based on the constitution, at least the scholars of constitutional law and craftsmen of state administrative law have a tangent point between the role of the executive (the President with the head of state, further the head of government) and the acting administrative officials who carry out the President's orders. The basic legal design, namely the 1945 Constitution, provides a pattern and affirmation that the system of government used in Indonesia is the Presidential system of government¹¹. Long before explaining this, in essence, the government system is a system that explains the relationship between the holders of executive and legislative power or with a

simple explanation related to the relationship between the work procedures of state institutions. As a holder of government power, in principle, the president leads the entire state administration process, both in the central government area, including local governments. The consequences of the choice of a presidential system of government require the president to obey and obey the authority of other institutions. If placed in the discussion of the execution of the PTUN decision, it is very possible for the president to supervise the implementation of the PTUN decision. The logic is simple, if the acting president issues state administrative decisions that are far from the principles of good governance and contrary to the principles of state administrative law, then the president as the acting supreme government must support the implementation of the execution of the PTUN decision as a form of respect for the presidential system of government. Although we know that sometimes the president cannot be separated from the parties to the dispute in the State Administrative Court, it needs to be emphasized that the basic principle in the administration of the state is mutual respect between branches of state power, including the implementation of a court decision¹².

Challenges in the implementation of PTUN decisions arise namely the situation where the acting state administration does not obey the PTUN decision is called the term *Contempt of Court*, some actions tarnish the court's authority, namely as follows; behavior that deviates from the moral rules of society in front of the court, defiance of court decisions, obstructing the process of building judicial proceedings, attacking the integrity and impartiality of judges and courts, and finally, the act of publication that insults the

⁹ Alfonsus Nahak, "Problematika Eksekusi Putusan Pengadilan Tata Usaha Negara Dalam Perspektif Hukum Gustav Radbruch," *Jurnal Pendidikan Sosial Dan Humaniora* 2, no. 3 (2023).

¹⁰ Zuman Malaka and Abdullah Isa, "Organisasi Peradilan Tata Usaha Negara Dalam Peradilan Di Indonesia," *TARUNALAW: Journal of Law and Syariah* 1, no. 01 (2023): 22–32, <https://doi.org/https://doi.org/10.54298/tarunalaw.v1i01.63>.

¹¹ Septiana Rizco Nurfaizi, "Kepala Negara Dalam Sistem Ketatanegaraan Indonesia Perspektif Siyash Islam," *DIKTUM*, 2020, 233–47, <https://doi.org/https://doi.org/10.35905/diktum.v18i2.1409>.

¹² Andre Prayoga, "Aturan Upaya Banding Administratif Oleh Aparatur Sipil Negara Di Badan Pertimbangan Kepegawaian Dengan Peradilan Tata Usaha Negara," *Jurnal Ilmiah Mahasiswa Hukum [JIMHUM]* 1, no. 4 (2021).

face of the judicial institution¹³. The strength of the president in the presidential system can pressure the acting government under him to obey and understand what the judiciary orders as a form of respect for the rule of law. A few problems in the background of the above problems, so the purpose of this research is to analyze the role of the President in ensuring the implementation of the decisions of the State Administrative Court (PTUN) in the presidential system of government. This study also aims to examine the extent to which the President's authority can be used to pressure government officials under him to comply with court decisions as a form of respect for the principle of the rule of law.

Method

This research uses a normative juridical method, which is to examine legal norms in laws and regulations related to the role of the President in the implementation of State Administrative Court (PTUN) decisions in the presidential system of government. This research is descriptive-analytical, which aims to describe and analyze the President's authority based on applicable legal and regulatory theories. The data used is secondary data, which consists of primary legal materials (laws and regulations such as the 1945 Constitution, the PTUN Law, and the Government Administration Law), secondary legal materials (books, journals, and previous research), and tertiary legal materials (legal dictionaries and Indonesian dictionaries). Data were collected through literature studies by browsing various relevant legal literature. Data analysis is carried out qualitatively with a statutory and conceptual approach, so that it can provide an understanding of the President's role in ensuring the implementation of the PTUN

decision and its implications for the principle of the state of law in the presidential system of government¹⁴.

RESULTS AND ANALYSIS

Portrait of the Relationship between Government Administration and the Presidential System of Government

A constitutional state is expected to run the government in an orderly manner and in accordance with constitutional signs. These signs are regulated in more detail in Law Number 30 of 2014 concerning Government Administration (Government Administration Law). One of the things that must be considered by the acting state administration in the administration of government in carrying out its government is mainly related to decision-making, including implementing court decisions. If traced further in the normative of the article, the principles of good governance will be found, namely the principles of prudence, equality, justice, certainty, and other principles of government administration¹⁵. To see further, the philosophy of implementing government administration can be captured in the section on considering its philosophy, namely to provide protection for the rights of the community in order to create people's welfare in accordance with the state goals enshrined in Pancasila and the 1945 Constitution. The portrait of good governance is related to the presidential system of government, especially the position of the president who holds the highest peak of the acting leadership of the government administration, therefore it is very possible that in the process of enforcing the decision of the presidential PTUN with the design of the presidential government system can be involved more actively and constitutionally as stipulated in article 4

¹³ Ahsana Nadiyya, "Urgensi Contempt Of Court Dalam Pelaksanaan Putusan Ptun: Studi Perbandingan Indonesia Dan Thailand," *Yustitia* 8, no. 1 (2022): 48–61, <https://doi.org/https://doi.org/10.31943/yustitia.v8i1.148>.

¹⁴ S Pt Amruddin, "Paradigma Kuantitatif, Teori Dan Studi Pustaka," *Metodologi Penelitian Kuantitatif Dan Kualitatif* 1 (2022).

¹⁵ Muhammad Zaidan, Nicholas Nugraha, and Moh Gusthomi, "Analisis Pembentukan Pengadilan Khusus Agraria Untuk Mengimplementasikan Asas-Asas Umum Pemerintahan Yang Baik Dalam Penyelesaian Urusan Tanah," *Journal Customary Law* 2, no. 1 (2024): 11, <https://doi.org/https://doi.org/10.47134/jcl.v2i1.3375>.

Paragraph (1) of the 1945 Constitution which states that "the President holds power in the administration of government"¹⁶. Furthermore, the author will elaborate on the role of the president's involvement in the presidential system to assist in the implementation of the PTUN decision.

Furthermore, the author will first provide the meaning of the presidential system of government in the building of a state of law. There are at least three systems of government in the world, namely a system of government with a parliamentary style, a system of government with a presidential design, and a system of government with mixed nuances. As explained above, the system of government is related to the relationship of power between the holder of executive power (President) and the legislative or parliamentary power. In the provisions of the 1945 Constitution, if we trace at least three characteristics of the presidential system of government adopted by Indonesia, namely a definite presidential term, the separation and division of power, the running of checks and balances mechanisms, the existence of general elections and much more importantly, strengthening the president is that the ministers are appointed by the president (presidential authority). According to Saldi Isra in his thought entitled Indonesia's government system, the struggle of the constitution towards a presidential system of government, explained that what is meant by the presidential system of government is that the people's sovereignty is held by two institutions, namely the President and the House of Representatives which are elected through general elections¹⁷. Not much different from Jimly Assiddiqie, that the characteristic of the presidential system of government is that the president appoints

ministers as assistants or subordinates of the president and is responsible back to the president, the executive is obedient and obedient directly to the people, the head of government is also the head of state, and the president is the sole executive and can command the acting subordinates¹⁸. From some of the constitutional information of the expert opinion above, a common thread can be drawn that the president has very great authority in the process of implementing the government.

In the presidential system of government, there is also a separation of powers as explained by Montesquieu's theory, but then Indonesia is closer to the division of power that allows for a government relationship between state institutions and each other. The division of power is tied to the principle of *checks and balances*, the principles are as follows:¹⁹

- a) Giving more authority to one state institution
- b) Supervision of one institution with another state institution
- c) Supervision of the implementation of law enforcement can be through the House of Representatives and the president
- d) Granting authority to the court in deciding disputes between the executive and the legislature.
- e) Mutual respect for decisions between regions of the branches of power

It is interesting to put the presidential system of government above with its character that is so thick with the authority of the president which is very strong in the administration of government. In the context

¹⁶ Muhadam Labolo, *Memahami Ilmu Pemerintahan* (PT. RajaGrafindo Persada-Rajawali Pers, 2023).

¹⁷ Saldi Isra, *Sistem Pemerintahan Indonesia, Pergulatan Ketatanegaraan Menuju Sistem Pemerintahan Presidensial* (Depok: Rajawali Pers, 2020).

¹⁸ Jimly Assiddiqie, "Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi," *Rajawali Press, Jakarta*, 2007.

¹⁹ Ari Wibowo et al., "Ruang Gerak Kekuasaan Dalam Wadah Demokrasi Konstitusional," *Wacana Paramarta: Jurnal Ilmu Hukum* 23, no. 2 (2024): 26–36, <https://doi.org/https://doi.org/10.32816/paramarta.v23i2.573>.

of law enforcement, it allows the president to help implement the judge's decision when there is non-compliance of government officials in carrying out the principles of good governance. The characteristics of good governance include transparency, accountability, compliance with the law, responsiveness, prioritizing justice and equality. The President as the holder of government power must also ensure that every acting government must reflect the above principles²⁰.

First, the principle of transparency is that the Government provides easy and broad access to the public for information about policies, processes, and decisions. Second, the principle of accountability, which means that public officials must be responsible for their actions and decisions and be ready to accept the consequences for their performance. Third, the Principle of Participation means that citizens have the opportunity to participate in the decision-making process through consultation, dialogue, and deliberation. Fourth, the principle of responsiveness is that the Government is responsive to the needs and complaints of the community, and provides quick and appropriate solutions. And the last principle that is no less important is compliance with the law with the affirmation that the Government and citizens are subject to the applicable law, and the law is enforced fairly without discrimination so as to produce a fair and equal administration of government²¹.

In the context of law enforcement, namely the implementation of court decisions, the principle of compliance with the law must be carried out by the government as a consequence of Indonesia adhering to the

state of law, as explained in the 1945 Constitution Article 1 Paragraph (3) The State of Indonesia is a state of law. The state of law formally implements the provisions contained in the laws and regulations, while the state of law in the material sense is the implementation of a government that contains the output of welfare nuances for all Indonesian people in accordance with the basis of the state of Pancasila and the basic law of the 1945 Constitution. Therefore, the implementation of good governance is the basis for sustainable development and improvement of community welfare. By adopting these characteristics, the government can create an environment conducive to the active participation of citizens, ensure justice and equality, and increase public trust in government institutions²².

The relationship between the president and the acting state under him is to ensure the pattern of government based on obedience to the law, if there is a gap between the president and the acting under him, then as the head of the government, it is very natural for the president to take concrete actions to solve it. Furthermore, there is a fairly close relationship between the presidential system of government and Indonesian law enforcement. The first relationship is related to the President's authority in issuing rules to support the implementation of law enforcement, for example, if law enforcement in the field of strengthening a court decision that already has legal force is definitely not complied with by the acting government, then the President issues a Presidential Regulation or Government Regulation to encourage the acceleration of the implementation of the decision²³. Through the role of the president

²⁰ Mia Amalia et al., *Buku Referensi Pengantar Hukum Indonesia* (PT. Sonpedia Publishing Indonesia, 2025).

²¹ Wawan Mulyawan, "Evaluasi Etika Kebijakan Pengentasan Kemiskinan Di Kabupaten Bima: Menjaga Dignitas Dan Kesejahteraan Masyarakat," *Public Service and Governance Journal* 5, no. 2 (2024): 85–100, <https://doi.org/https://doi.org/10.56444/psgj.v5i2.1479>

²² Jayanti Puspitaningrum, *Hukum Pemerintahan Daerah Dan Otonomi Khusus* (PT. Sonpedia Publishing Indonesia, 2025).

²³ Marsudi Dedi Putra, "Kemendesakan Pengaturan Pengawasan Eksternal Perilaku Hakim Konstitusi," *Syntax Idea* 6, no. 3 (2024): 1435–51, <https://doi.org/https://doi.org/10.46799/syntax-idea.v6i3.3135>.

who holds strong government power, supported by the mechanism of the presidential system plus the authority of the president, he makes regulations including presidential regulations, government regulations, including issuing perppu for the enforcement of PTUN decisions, and can even further order his subordinates, namely ministers, to issue ministerial regulations ²⁴.

Arrangement of Executive (President) Involvement in Enforcing PTUN Decisions

The design of the 1945 Constitution affirms the position of the president as the holder of government power as explained in Article 4 Paragraph (1) "the president holds government power according to the Constitution." The meaning of the holder of government power is the President as the head of government as well as the head of state holding and exercising government power with his cabinet ministers. Government power is also included in this case supervising the compliance of acting state administrators in issuing and implementing PTUN decisions. The President, through his ministers, can reprimand or even impose strict sanctions on the acting administrator if the acting administrator deviates from obedience to the rule of law ²⁵. Furthermore, at least the role of the President's involvement in overseeing the implementation of law enforcement, including the decision of the State Administrative Court, already has a strong regulatory basis in the Constitution. The involvement of the executive, especially the president, in enforcing the decisions of the State Administrative Court (PTUN) is regulated in laws and regulations that aim to ensure the effective and fair implementation of court decisions. The following is a stretch of regulations regarding the involvement of

the executive in enforcing the PTUN decision as stipulated in Law 5 of 1985 concerning the PTUN.

Law Number 5 of 1985 concerning the State Administrative Court, in the provisions of Article 116 provides a constitutional basis so that the acting state administrative officer who issues the state administrative decision obeys and obeys the court order if the decision is considered contrary to the laws and regulations and the general principles of good governance. The President's room for involvement to enter the area of execution of the decision is in article 116 paragraph (4) which reads "If the defendant still does not want to carry it out, the Chief Justice of the Court submits this matter to his superior agency according to the level of position." The meaning of the norm provides an entrance to higher officials with the principle of tiered supervision, therefore the highest level of office is the President. Therefore, the PTUN law has provided a fairly wide regulation for the President to be involved in the implementation or enforcement of a PTUN decision ²⁶.

Interestingly, after Law No. 5 of 1986 was revised to Law No. 9 of 2004, the implementation of PTUN decisions has implemented a fixed execution system, which allows execution to be enforced by the Court as explained in article 116. In addition, officials who do not implement the decision may be subject to sanctions in the form of payment of a sum of forced money and/or administrative sanctions. If the official still does not carry out the decision, the Registrar will announce it through the local print mass media. The court must also report this matter to the President to order the official to implement the decision, as well as to the

²⁴ Jaka Kusnanto et al., "Kewenangan Presiden Dalam Konsil Kedokteran Indonesia (Analisa Putusan Mahkamah Agung No. 128/Pk/TUN/2022)," *Jurnal Darma Agung* 31, no. 1 (2023): 1005–14, <https://doi.org/https://dx.doi.org/10.46930/ojsuda.v31i1.3058>.

²⁵ Farida Azzahra, "Pemberlakuan Sanksi Administratif: Bentuk Upaya Paksa Meningkatkan

Kepatuhan Pejabat Atas Pelaksanaan Putusan Peradilan Tata Usaha Negara (Teori Efektivitas Hukum)," *Binamulia Hukum* 9, no. 2 (2020): 127–40, <https://doi.org/https://doi.org/10.37893/jbh.v9i2.368>.

²⁶ Enny Agustina, *Sengketa Kepegawaian Dalam Sistem Peradilan Tata Usaha Negara* (PT. RajaGrafindo Persada-Rajawali Pers, 2022).

people's representative institution to carry out the supervisory function²⁷.

In the administration of government, there are two interrelated legal buildings, namely Law 30 of 2014 concerning Government Administration and Law Number 5 of 1986 concerning the State Administrative Court. The two regulations above reinforce each other, both as material law and formal procedural law. The purpose of the PTUN and Law No. 5 of 1986 is to protect the interests of the people. This spirit will provide a spirit of legal compliance for every acting officer to carry out all decisions issued by the court and respect the state of Pancasila law²⁸. The objectives and functions of the PTUN are as follows:

- a) In terms of the state's purpose, the court is to protect the entire Indonesian nation and all Indonesian bloodshed and promote public welfare.
- b) The implementation of good governance is the main basis for sustainable development and improvement of people's welfare. By adopting these characteristics, the government can create an environment conducive to the active participation of citizens, ensure justice and equality, and increase public trust in government institutions.
- c) The essence of enforcing the law in the sense of implementing all forms of legal decisions that are fair and in accordance with the provisions of regulations per law²⁹.

Regardless of the purpose of the state above, if we relate it to the opinion of experts such as Aristotle, it is more stated that a good

country is a country based on law, which means that the state must be able to guarantee justice to its citizens³⁰. Therefore, within the limits of reasonable reasoning, the state that upholds the law is not a human being, but a fair mind contained in the rule of law, while the territory of power is enough to play its role in the balance. It is not much different from the purpose of the PTUN, which is to provide strict protection of the rights of the community and ensure the implementation of its wishes, namely serving, protecting, and making people happy in the order of life in society, the nation and the state.

The philosophy of the institution of the PTUN adheres to the principle or system of *self-respect/self-obedience*, the system provides a pressure point that the implementation of a PTUN decision is highly dependent on the nuances of the legal culture of the actors acting the government³¹. Then after the second amendment to the PTUN Law, the process of implementing the TUN Judicial decision after Law Number 5 of 1986 was revised by Law Number 51 of 2009, the law placed more emphasis on the use of a *fixed execution system*, namely where the execution process whose implementation can be enforced by the Court, and if it still cannot be carried out against the official concerned, he is subject to forced money in the form of payment of a sum of money and/or administrative sanctions (Article 116 paragraph (4). If it is still not implemented, it will be announced in the local print mass media by the Registrar. The above is as affirmed in article 116 of the PTUN Law.

The most interesting thing is that in addition to being announced through the print mass media, the Chief Justice of the Court

²⁷ Nadiyya, "Urgensi Contempt Of Court Dalam Pelaksanaan Putusan Ptun: Studi Perbandingan Indonesia Dan Thailand."

²⁸ Vena Pricilia, "Perlindungan Hukum Bagi Notaris Yang Dipanggil Dan Diperiksa Lebih Dari Sekali Oleh Majelis Kehormatan Notaris Terhadap Akta Dengan Kasus Dan Alasan Yang Sama (Studi Putusan Pengadilan Tata Usaha Negara No. 77/G//2018/PTUN-MDN Juncto Putusan Pengadilan Tinggi Tata Usaha Negara 246/B/2018/PT. TUN-MDN)," *Indonesian Notary* 3, no. 2 (n.d.): 32.

²⁹ Dahlia Ririyanti Siregar, "Wewenang Peradilan Tata Usaha Negara Dalam Menilai Penyalahgunaan Wewenang Pejabat Tata Usaha Negara," *Lex Privatum* 13, no. 3 (2024).

³⁰ Zainal Arifin Mochtar, *Politik Hukum Pembentukan Undang-Undang* (Buku Mojok, 2022).

³¹ Budi Suhariyanto, "Urgensi Kriminalisasi Contempt of Court Untuk Efektivitas Pelaksanaan Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 16, no. 1 (2019): 192–211, <https://doi.org/https://doi.org/10.31078/jk16110>.

must submit this matter to the President as the holder of the highest government power to order the official to implement the Court's decision, and to the people's representative institution (DPR) to carry out the supervisory function as referred to in Article 116 paragraph (6). If interpreted in depth, Article 116 Paragraph (6) provides a constitutional way for the executive (President) and the House of Representatives (Legislative) to play their role to support the implementation of the execution of court decisions and the relationship between the two branches of power regulated in the PTUN Law, which is the embodiment of the principles of constitutional democracy of the presidential system of government.

As explained in the philosophical basis through the TUN Judicial decision, it is expected to be able to uphold the law, justice, truth, order, and legal certainty so that it can provide protection to the wider community in order to create substantive justice, especially in the relationship between a body or administrative official and the community. The decision made by an administrative or state administrative judicial institution that has obtained legal force must still be implemented consistently and consequentially. The design of the implementation of the decision is regulated by Article 116 paragraph (6) of Law Number 5 of 1986 which states that "If the superior agency as referred to in paragraph (4) does not comply with the provisions in paragraph (5), the Chief Justice of the Court will report this to the President as the holder of the highest government power to order the official to implement the Court's decision."

In the procedural law building at the State Administrative Court, there are two PTUN decisions, namely decisions that can be implemented are decisions that have execution value, while there are also decisions that are not worth executing (*non-executable*) which are called decisions that cannot be implemented perfectly, therefore the handling will be different from decisions that have execution value ³². It is not so easy for administrative court decisions to be implemented by acting state administrators due to several negative obstacles. If referring to the provisions of Article 116 above, non-compliance with the implementation of the PTUN decision can be complained of in stages, starting from asking for coercive efforts from the chief justice, reporting back to the court on the basis of disobedience to the court *decision (contempt of court)* to the culmination of asking the President and the House of Representatives to be involved in encouraging the implementation of the PTUN decision ³³. Although in the presidential system of government the president holds great power over the administration of government plus there is a juridical basis that is the constitutional basis for the President to be involved in enforcing the PTUN decision, but related to the implementation of the PTUN decision there are several interesting factors to present, the following factors that the PTUN decision is difficult to implement:

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- a) It is feared that the President acts subjectively in the sense that the President goes too far in intervening in the course of law enforcement

³² Martitah Martitah, Chanidia Ari Rahmayani, and Rizqan Naelufar, "Rejuvinasi Demokrasi Konstitusional Melalui Amendemen UUD 1945," *MORALITY: Jurnal Ilmu Hukum* 10, no. 2 (2024): 262–80, <https://doi.org/http://dx.doi.org/10.52947/morality.v10i2.758>.

³³ Dani Habibi and M S Nuruzzaman, "Fungsionalisasi Hukum Responsif Terhadap Pelaksanaan Putusan Peratun Sebagai Bentuk Perlindungan Hukum Dalam Kerangka Pembaharuan

Sistem Hukum Nasional," *Jotika Research in Business Law* 2, no. 2 (2023): 66–82, <https://doi.org/https://doi.org/10.56445/jrbl.v2i2.95>.

³⁴ Bertha Maulidina, Silvia Ratna Anzani, and Vianna Novita Kristya, "Peran Peradilan Tata Usaha Negara Dalam Penegakan Hukum Administrasi Negara Berbasis Prinsip Good Governance," *YUSTISI* 10, no. 1 (2023): 196–209, <https://doi.org/https://doi.org/10.32832/yustisi.v10i1.17256>.

- b) The president will be easily politicized by momentary interests and this will reduce the authority of the president if the president fails to enforce or implement the decree
- c) In the presidential system of government, there will be a tug-of-war between the President and the DPR, so that the president's involvement in executing the decision will also be supervised by the DPR and this is where there will be a mixture of political interests and legal interests
- d) About the PTUN decision and its legal considerations are not clear ordering the president to be involved in implementing the PTUN decision
- e) There needs to be a strong political will for the president to involve himself in leading the execution of a court decision.

Tracking data in 2021, based on the annual report of the Ombudsman of the Republic of Indonesia in 2021, there are approximately 109 reports related to the lack of Execution of Judgments, and most of them are the execution of decisions at the State Administrative Court ³⁵. There are several things that are not implemented by the PTUN decision, namely; the absence of hierarchical legal awareness, the absence of a special team to execute the decision, many floating norms or content of the PTUN decision and finally the low trust of the acting administrator and the public in the PTUN decision so that the court loses its authority ³⁶. In addition to the above factors, according to Ismail Romadhan, there are several factors that hinder the

difficulty of achieving the enforcement of the implementation of the PTUN decision, among the factors are the mechanism for completing the execution is still unclear, plus the efforts of the President and the House of Representatives have not been fully present to assist in the implementation of the decision; constraints regarding how much forced money is paid and to whom it is paid, and most importantly, where the source of financing comes from if charged to the agency; The non-implementation of hierarchical execution at the regional level is due to sectoral egos between the governor and the regent ³⁷.

From several factors that make it difficult to execute the PTUN decision above, the author considers that there is a need for a clear norm setting mechanism at the level of presidential regulation or government regulation that gives orders or obligations to the president to be actively involved in the process of enforcing PTUN decisions is not just the last alternative but the main role is a consequence of the choice of the presidential government system which puts the president quite strongly in The process of implementing the government and the president can become acting administrators with absolute authority and the role of ministers in helping to supervise and monitor the acting officers under them in issuing state administrative decisions to pay attention to the broader, measurable, fair, and useful interests a consequence of the choice of the presidential government system which puts the president quite strongly in The process of implementing the government and the president can become acting administrators with absolute authority and the role of ministers in helping to supervise and monitor the acting officers

³⁵ Ombudsman Republik Indonesia, "Laporan Tahunan Ombudsman Republik Indonesia Tahun 2019," *Ombudsman Republik Indonesia* 127 (2021).

³⁶ Nfn Yulius, "Diskursus Lembaga Eksekusi Negara Dalam Penegakan Hukum Di Indonesia/The Discourse Of State Execution Institution In Indonesian Law Enforcement," *Jurnal Hukum Peratun* 1, no. 1 (2018): 11–32, <https://doi.org/https://doi.org/10.25216/peratun.112018.11-32>.

³⁷ Viorizza Suciani Putri, Ahmad Ahmad, and Mohamad Hidayat Muhtar, "Antara Otoritas Dan Otonomi: Pertautan Hak Asasi Manusia Dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM Dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 21, no. 3 (2024): 392–412, <https://doi.org/https://doi.org/10.31078/jk2133>.

under them in issuing state administrative decisions to pay attention to the broader, measurable, fair, and useful interests.

CONCLUSION

The position of the President in the presidential system of government plays a very central role. This position places the President as the holder of government power according to the Constitution, including in the process of implementing the government and encouraging efforts to implement the PTUN decision. Furthermore, Law Number 5 of 1956 and the amendment of Law Number 51 of 2009 concerning the State Administrative Court in Article 116 have opened space for the holder of executive power, in this case the President and the holder of legislative power, namely the House of Representatives, to supervise and be involved in efforts to enforce the decision of the State Administrative Court as the ideal of the state of law, which is to place laws and court decisions that have legal force as a reference in acting.

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