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Non-compliance of State Administrative Officials with State Administrative Court Decisions that have Permanent Legal Force (Case Study of Bandung PTUN Decision Number: 06/G/2006/PTUN-BDG)

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ABSTRACT

One of the implementations of the concept of the civil law state is the existence of an administrative judicial institution, namely the state administrative court. As the executor of judicial power, the state administrative court has the authority to issue decisions that are declarative, constitutive, and condemnatory. However, until now, the imposition of administrative sanctions still faces juridical challenges due to the voluntary mechanism for imposing administrative sanctions. The author of this study uses normative legal research methods. From this study, it is known that the factors that cause non-compliance of state administrative officials with state administrative court decisions are: (1). There is no special executive institution or sanctioning institution that functions to implement the decision; (2). There is a low level of awareness among TUN officials about obeying the TUN court decision; (3). There is no firmer regulation regarding the implementation of the PTUN decision.

Keywords: State Administrative Official, PTUN Official, PTUN Decision

INTRODUCTION

The 1945 Constitution of the Unitary State of the Republic of Indonesia contains Indonesia's ideals, namely realizing social justice based on the values of divinity, humanity, and unity (Nurwahyu, 2022). To realize this, it is necessary to have a concept of guaranteeing the implementation of the law in this country as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. One of the implementations of the concept of the civil law state is the existence of an administrative judicial institution, namely the state administrative court. The existence of administrative justice is a sine quo nonrequirement for the fulfillment of the status and legitimacy of the rule of law. The importance of the position of the state administrative judiciary in Indonesia is due to its position as a check and balance or prevention and supervisor of abuse of function in government in Indonesia (Hasmi, 2017).

With establishing the state administrative court in Indonesia, Indonesia has fulfilled one of the requirements as a state of law. F.J. Stahl, through his work entitled Philosophy des Rechts, published in 1878, mentions the elements of the state of law, which include: 1) recognizing and protecting human rights; 2) the existence of the concept of trias politica; 3) the government is based on the law in carrying out its duties; 4) the existence of administrative justice.

The regulation regarding the PTUN as one of the institutions of judicial power has been expressly regulated through Article 24, paragraph (1) and paragraph (2) of the Third Amendment to the 1945 Constitution of the Republic of Indonesia, which contains that judicial power is an independent power to carry out the judicial process to uphold justice; and the exercise of judicial power is carried out by the Supreme Court and various judicial bodies under it, including the general court, religious court, military court, state administrative court and the Constitutional Court. So, it is clear that the existence of the judicial power institution has an independent position in carrying out the purpose of upholding law and justice. This is in line with the four functions and goals of the state, one of which is to uphold justice(Sovacool et al., 2017) .

Meanwhile, judging from its historical aspect, the state administrative court has indeed existed since 1986 with the existence of law number 5 of 1986 concerning the state administrative court which then came into effect in 1991. However, the State Administrative Law has undergone several changes, which were originally regulated in Law No. 5 of 1986, amended by Law No. 9 of 2004, and amended again by Law No. 51 of 2009 concerning the second amendment to Law No. 5 of 1986 concerning the State Administrative Court. When viewed from the basic idea, Paulus Efendi Lotulung said that the state administrative court was formed in order to resolve disputes between the government and the community as a result of government actions to provide legal protection to people whose rights were violated.

As the executor of judicial power, the state administrative court has the authority to issue decisions that are declarative, constitutive, and condemnatory (Muhammad et al., 2021). Only court decisions that have acquired permanent legal force (by force of res judicata)) can be implemented; in other words, the judge's decision obtains permanent legal force if there are no other legal remedies that can still be applied, such as appeals or cassations. However, for almost 30 years, it has experienced problems in the implementation of the decisions of the state administrative court. The formation of the state administrative court is a progressive idea in order to realize a modern legal state (Zhang & Yang, 2021).

After the enactment of Law Number 30 of 2014 concerning Government Administration, it has affirmed and placed the implementation of the State Administrative Court's decision as an obligation for government officials. This is regulated in Article 7 paragraph (2) letters k and l, which states that government officials have the obligation to carry out valid decisions and/or actions and decisions that have been declared invalid or canceled by the Court, the official concerned, or the official's superiors, as well as comply with court decisions that have permanent legal force.

This provision is further emphasized in Article 72 of Law Number 30 of 2014 concerning Government Administration, which reads: (1) government agencies and/or officials are obliged to carry out legitimate decisions and/or actions and decisions that have been declared invalid or canceled by the court or the relevant officials or superiors. Therefore, the non-compliance of Government Agencies and/or Government Officials in carrying out their obligations to implement the State Administrative Court Decision as mandated in Article 72 paragraph (1) is qualified as a

violation and subject to administrative sanctions that have been determined in Article 80 paragraph (2) of Law Number 30 of 2014 concerning Government Administration.

Then it was reaffirmed in Article 3 paragraph (2) letter k, and l Government Regulation Number 48 of 2016 concerning Procedures for Imposition of Administrative Sanctions to Government Officials. The issuance of Government Regulation Number 48 of 2016 concerning Procedures for the Imposition of Administrative Sanctions is an implementation of Law Number 30 of 2014 concerning Government Administration.

However, until now, the imposition of administrative sanctions still faces juridical challenges due to the voluntary mechanism for imposing administrative sanctions. There is no law or provision that regulates coercion against superior officials who refuse to impose administrative sanctions against their subordinates (Arlen, 2016). Therefore, from the point of view of the Theory of the State of Law, this is contrary to the principle of legality, which requires a written regulation that regulates the imposition of administrative sanctions.

Regarding the issue of the execution of the decision of the state administrative court, it is contained in case Number 06/G/2006/PTUN-BDG with the plaintiff Rohani Abdul Rohim, Kartini, Aminudin Mahmudi/Sofia Sundari, S.T. Masrial, Hadi Suprio through his legal representative at the Law Office of T. Sinambela, SH & Associates against the Head of the Tangerang Regency Land Office as the Defendant. In this case, the decision was strengthened by the decision of the Jakarta State Administrative Court No. 78/B/2007/PT. TUN.jkt dated July 19, 2007, Jo. Determination of the Bandung Administrative Court No. 22/PEN. EKS/2008/PTUN. BDG dated December 18, 2008. So case Number 06/G/2006/PTUN-BDG has permanent legal force. The verdict states:

1. Granting the plaintiffs' lawsuit in its entirety;
2. Declare null and void the Certificate of Property Rights (SHM) Number: 630/Pondok Cabe Udik and its derivatives or divisions;
3. Ordering the Defendant to revoke the Certificate of Property Rights (SHM) Number 630/Pondok Cabe Udik and its derivatives or fragments;
4. Punishing the Defendant to pay the costs incurred in the dispute of Rp. 2,880,000 (two million eight hundred and eighty thousand rupiah).

However, until now the decision of case No. 06/G/2006/PTUN-BDG has not been executed by the Defendant, namely the Head of the Tangerang Regency Land Office. Remembering, the implementation of the State Administrative Court Decision is the domain of the National Land Agency over the cancellation of the land right certificate.

As in Article 1 number 12 of the Regulation of the Minister of State of Agrarian Affairs/Head of BPN Number 3 of 1999 Juncto Article 1 number 14 of the Regulation of the Minister of State Agrarian Affairs/Head of BPN Number 9 of 1999 emphasizes that the cancellation of land rights is the cancellation of the decision to grant a land right or a certificate of land rights because the decision contains administrative legal defects in its issuance or to implement a court decision that has obtained permanent legal force. If the court decision orders the cancellation of the land

certificate, the recording of the cancellation of land rights can only be carried out after the issuance of a decree regarding the cancellation of the certificate that can abolish the right to the land concerned by the appointed official. Considering that in the context of human needs for land, land certificates are a solid legal foundation while confirming the ownership of land and ensuring legal certainty, especially for plaintiffs who have rights to land (Antoni et al., 2024).

However, in reality, in the field, there are many decisions of the State Administrative Court that have permanent legal force that order the cancellation of land certificates but are not implemented by the relevant National Land Agency. This is in line with what happened to the decision Number 06/G/2006/PTUN-BDG which has not yet been implemented by the Defendant, namely the Head of the Tangerang Regency Land Office.

State administrative officials, in carrying out their duties and authorities as state officials, are limited by the principles of good governance, so with the principles of good governance, a form of legal certainty for every citizen can be achieved (Pakpahan, 2023). The lack of integrity of state administrative officials in implementing the PTUN decisions based on the principles of good governance is a problem in itself in terms of law enforcement. Law Number 51 of 2009 concerning state administrative justice Article 116 paragraph (4) regulates coercive efforts in the form of payment of a certain amount of money or administrative sanctions against officials who do not implement court decisions that have permanent force. Administrative sanctions in the form of forced money to state/government officials are a form of modern administrative sanctions as an alternative to the application of government coercive efforts. However, this still has weaknesses because it does not comprehensively regulate the implementing rules and technical instructions on how the instrument of coercion can be implemented (Gooding et al., 2022).

Meanwhile, when looking at the perspective of comparison with several countries such as France, Germany, and Thailand. For example, in France, the TUN judicial system uses an administrative judicial system that culminates in the conseil d'etat. Even in France, there are no administrative officials who do not implement state administrative decisions because of the self-awareness possessed by their state administrative officials. France is also known as a country that has the authority and existence of the judiciary in the world (Massot, 2017). In Germany, there are government control agencies that can sue the government or official actions that are detrimental to the public interest and be brought to court for trial. Therefore, the system illustrates the idea that the rights of the people will be protected from government actions that are contrary to the law.

An interesting thing also exists in Thailand, where both Thailand and Indonesia, in the implementation of judicial decisions, use coercive efforts to comply with the decisions of the State Administrative Court by the defendants (Pamungkas et al., 2023). Where the mechanism is through forced money and an order mechanism to state administrative officials to carry out court decisions. A very basic comparison of the mechanism for implementing PTUN decisions between Indonesia and Thailand (Rosser & Fahmi, 2018). Because in Thailand, there is an execution agency (Legal Execution Department). In addition, Thailand also has a contempt of court mechanism for State Administrative Officials who do not comply with the detention order will receive serious sanctions

in the form of the court imposing coercion and determining disciplinary action against the State Administrative Officer concerned with the case, or without a court examination can impose a prison sentence on the grounds of contempt of court.

Based on the background that has been explained above, the author is interested in raising one of the land dispute cases that have been decided by the court and has permanent legal force, but until now, the decision has not been implemented by the State Administrative Official, which in this case is the Tangerang National Land Agency. South. In this study, the author tries to provide a comparison with several countries, such as France, Germany, and Thailand, to find out how the implementation of decisions by TUN officials in those countries.

RESEARCH METHODS

The author of this study uses normative legal research methods. Normative research serves as a guide in solving research problems. Normative law research is carried out by examining various formal legal rules, such as laws and regulations, as well as theoretical concepts related to the problems in the research raised (Prior, 2016).

The problem approach carried out in this study uses a statute approach and a conceptual approach and a comparative approach. Data collection and collection are carried out by means of library research which includes primary, secondary, and tertiary legal materials (Budianto, 2020).

RESULTS AND DISCUSSION

Factors that cause non-compliance of State Administrative Officials with State Administrative Court decisions that have permanent legal force

The Law on State Administrative Courts (PTUN) has undergone several changes since it was first regulated in Law Number 5 of 1986. Then it was revised in 2004 through Law Number 9 of 2004. Which was finally updated with Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning the State Administrative Court.

Through his consideration, the purpose of the establishment of the State Administrative Court, namely in Law Number 51 of 2009 concerning the State Administrative Court, is to protect the people and the nation from an unstable, just and dignified life. In addition, it also fosters a harmonious relationship between government officials who uphold the commitment of state administration and the people.

The birth of the State Administrative Court is a representation of the people in fighting for their rights from potential abuse of power and legal precedents that may be committed by government institutions. However, the fact on the ground is that the public's expectations for the State Administrative Court have not really been realized as it should. This is because, in the dozen years since the birth of the State Administrative Court, the PTUN, in its implementation, often causes conflicts of interest, disputes, and disputes between TUN Bodies or Officials and the community, which has harmed or hindered the implementation of government.

Although the PTUN decision has permanent legal force, it cannot be implemented easily

because not everyone wants to obey the PTUN decision. Conflicts or land disputes often occur involving state administrative officials (Riggs et al., 2016). If originally, land disputes could be resolved by the community concerned through customary institutions. However, it has currently involved several components that have several different interests. So, the settlement of land disputes must shift by involving state institutions or institutions, namely the General Court (District Court) and the State Administrative Court (PTUN).

The case of non-implementation of the PTUN decision by the State Administrative Officer can be seen in case Number 06/G/2006/PTUN-BDG with the plaintiff Rohani Abdul Rohim, Kartini, Aminudin Mahmudi/Sofia Sundari, S.T. Masrial, Hadi Suprio through his legal representative at the Law Office of T. Sinambela, SH & Rekan against the Head of the Tangerang Regency Land Office as the Defendant. In this case, the decision was strengthened by the decision of the Jakarta State Administrative Court No. 78/B/2007/PT. TUN.jkt dated July 19, 2007, Jo. Determination of the Bandung Administrative Court No. 22/PEN. EKS/2008/PTUN. BDG dated December 18, 2008. So, case Number 06/G/2006/PTUN-BDG has permanent legal force. The verdict states:

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3. Ordering the Defendant to revoke the Certificate of Property Rights (SHM) Number 630/Pondok Cabe Udik and its derivatives or fragments;
4. Punishing the Defendant to pay the costs incurred in the dispute of Rp. 2,880,000 (two million eight hundred and eighty thousand rupiah).

The decision of the State Administrative Court requesting the cancellation of the certificate shows that the National Land Agency in issuing land rights certificates is often administratively flawed in the issuance of land rights, procedural errors, errors in the application of laws and regulations, to errors in data on the subject of rights/objects of rights or incorrect physical data and juridical data.

If you look carefully based on the sitting of the issues in the decision, it is clear that there is an error from the State Administrative Official, namely the National Land Agency of Tangerang Regency as the Defendant who issued SHM Number: 630/Pondok Cabe Udik and SHM Number 362/Pondok Cabe Udik on land owned by the Plaintiff. In this case, the Tangerang Regency BPN did not conduct a thorough investigation of all the completeness of the requirements submitted by other parties. BPN's carelessness and inaccuracy because it did not research all relevant facts and data and did not conduct a land history investigation regarding physical data and juridical data on the object of land disputes (Barros et al., 2024). So that this creates legal uncertainty for the aggrieved parties. Therefore, if you look at Government Regulation Number 10 of 1961 concerning Land Registration, especially Article 3 paragraph (2), the decision of the State Administrative Court Number: 06/G/2006/PTUN-BDG is appropriate in granting the Plaintiff's lawsuit and canceling the object of dispute in the form of a land certificate due to material defects

and juridical defects.

Based on the above case, the Plaintiff won the lawsuit and the court ruling has obtained enforceable permanent legal force. This indicates that the head of the Tangerang Regency BNP, as a State Administrative Officer, was ordered to revoke and cancel the State Administrative Decree in the form of Certificate of Property Rights Number: 630/Pondok Cabe Udik and Number 362/Pondok Cabe Udik in the name of Garmadi Kartawidjaja.

However, the implementation of the execution of the State Administrative Court's decision on the cancellation of land rights certificates has not been carried out by the Head of the Tangerang Regency Land Agency which is now included in the South Tangerang BPN area as a State Administrative official, even though the decision has permanent legal force.

Execution is the final stage of resolving TUN disputes at the PTUN. Execution contains the meaning of implementing the judgment by or with the help of other parties outside the disputing party. In essence, the execution is nothing but the realization of the obligation of the party concerned to fulfill the achievements listed in the verdict. Article 115 of the PTUN Law stipulates that "only court decisions that have obtained permanent legal force can be implemented" if there are no more ordinary legal remedies that can be taken. This means that judicial decisions within the PTUN have permanent legal force. However, there are several factors that have become findings in the field related to the execution of PTUN decisions that have obtained legal force, including:

1. There is no special executive institution or sanctioning institution that functions to implement the decision.

If you look at the General Court, it has a compulsory institution, namely real execution by the Clerk under the leadership of the Chief Justice for civil matters (Articles 195 to 208 of the Criminal Code and Article 1033 of the Civil Court). And there is the Prosecutor as the executor of the Criminal verdict (Article 270 of the Criminal Code). Meanwhile, in the Military Court, it is the Military Prosecutor who is obliged to execute the verdict of the Military Judge. The Religious Court, according to the provisions of Articles 95, 98, and 103 of Law Number 7 of 1989, can also carry out forcible execution of the determination and decision, including carrying out all kinds of confiscation (beslag).

2. Low level of awareness of TUN officials in obeying TUN court decisions

The weak level of legal awareness of TUN Officials has a great impact on whether or not the judgment of the Judge of Judges is complied with. Because normatively, the execution of the decision of the Judge of the Judicial Court is more dependent on the willingness of the official concerned to implement the decision of the PTUN. By relying on willingness, of course, many TUN officials are not willing to carry out the decision, so they choose not to carry out the decision.

3. There is no firmer regulation regarding the implementation of PTUN decisions

The provisions regarding the execution of PTUN decisions have been contained in article 116 of Law Number 5 of 1986 Jo Law Number 9 of 2004 Jo Law Number 51 of 2009, which states that the court can ask the superior of the TUN official concerned or even the president to force the

implementation of the court decision. This is of course not easy, because there are so many problems regarding the non-implementation of the PTUN decision, the president does not take action and steps to reprimand or sanction TUN officials. So that this is one of the factors that hinder the execution of the PTUN decision which has permanent legal force.

The above factors are a few of the problems that cause the non-implementation of the PTUN decision which has permanent legal force. Although if realized, the problem of legal substance from the execution of the PTUN decision also exists in Article 116 of the PTUN Law which is considered a floating norm. Article 116 of the PTUN Law is floating because in its implementation, the chief justice does not carry out real execution, but only as a supervisor (vide Article 119 of the PTUN Law). Because of the fact that the tools for forcing the implementation of court decisions are instead handed over to government officials. As for the tools or instruments of coercion for the implementation of court decisions based on Article 116 of the PTUN Law, they are in the form of administrative sanctions and forced money. The same thing is also regulated in Article 72 paragraph (1), Article 80 paragraph (2), and Article 81 paragraph (2) of Law Number 30 of 2014 concerning Government Administration.

At the normative level between the AP law and the PTUN Law, there are fundamental differences regarding administrative sanctions and forced money as an instrument of compulsory execution of court decisions. If in the Government Administration Law Number 30 of 2014, forced money is interpreted as part of administrative sanctions, while in the PTUN Law between forced money and administrative sanctions are separated. Not only that, in the Administrative Law of the government, forced money is interpreted as security money that will be returned to the defendant after the verdict is implemented (vide explanation of Article 81 paragraph (2) letter a), while in the PTUN Law forced money is the right of the plaintiff if the decision has not been implemented (vide 116 of the PTUN Law). These two norms are still in force today, causing confusion in practice.

In the aspect of the sub-system of the legal structure where there are no officials specifically authorized to enforce the implementation of the judgment is one of the problems in the implementation of the decision (Widyawati et al., 2022). In fact, this was mentioned by Yulius who is the Supreme Court of the Republic of Indonesia who according to him "in order to be able to effectively implement a state administrative court decision, it must be carried out by a special institution that is authorized like the Execution Institution in Thailand".

The absence of an execution institution, according to Yulius, is not only a problem for the state administrative judiciary, but must also be owned by the entire judicial environment (Roux, 2018). Therefore, it is necessary to form an institution that specifically handles judicial execution so that there is no longer a need to distinguish between general judicial execution, religious court, military court and TUN court. This is considered reasonable because the implementation of court decisions in the state administrative court procedural law is no longer the domain of judicial power but has entered the executive realm because it is carried out independently by officials. This is as stated by Utrect, if a matter is not a judicial or legislative affair, then it is a government affair:

"What is meant by "administration" is a combination of positions (Complex van ambition) under the leadership of the Government that carries out a certain part of government work (overbeidstaak), that is, the part of government work that is not assigned to the judiciary, the legislature (central) and the government bodies of the legal federations that are lower than the state and which are given the power to ----- on their own initiative or on the basis of the An order from the central government (Swatantra and Medebewind)---- to govern its own region (provinces, special regions, districts, cities, villages) (Swatantra regional administration)".

Looking at the various factors above, so that it becomes an obstacle in the implementation of administrative court decisions, including in land dispute cases based on court decisions Number: 06/G/2006/PTUN-BDG which until now have not been executed by state administrative officials.

Legal Instruments in Overcoming Non-Compliance of State Administrative Officials with Decisions That Have Permanent Legal Force in a Comparative Perspective

In this discussion, the author tries to review legal instruments in overcoming the non-compliance of state administrative officials with decisions that have permanent legal force in a comparative perspective (Hamilton-Hart, 2017). In order to find the right legal instrument, the author tries to compare 3 countries, namely Thailand, Germany, and France, to find out how the State Administrative Courts exist in these countries and the implementation of their decisions.

1. Thailand

The existence of the PTUN is a form of interest for many countries, especially those that use the rechtstaat legal system. In addition to Indonesia, one of the adherents of the rechtstaat system is Thailand. The Thai Administrative Court can execute the defendant's property in accordance with the Civil Procedure Code. Unlike Indonesia, Thailand has an execution department in the structure of the Ministry of Justice called the Legal Execution Department, which handles the results of decisions on disputes. In addition, if the defendant does not implement the court decision, he can be sentenced to a criminal offense on the grounds of contempt of court.

Thailand's administrative court was only formed in 2001, while Indonesia's has been since 1991. However, from the mechanism for implementing the TUN decision, Thailand is much better than Indonesia's PTUN. The mechanism for implementing the decisions of Thai administrative courts is regulated in Article 72 of the Thai Law concerning the establishment of administrative courts and administrative court procedures, which are as follows:

a. In the event that the defendant's decision is unlawful, the court may order or delay part or all of it
b. In the event that an official commits an omission or unreasonably delays a service, the court may order the chief administrative officer concerned to discharge an obligation determined by the court.
c. In the event that an official's decision is issued in violation of the law or in violation of obligations or related to an administrative contract, the court may order the payment of a sum of money or the delivery of goods or to do or not to do something with or without giving a certain period of time or circumstances/conditions

d. In relation to an application regarding a person's rights and obligations, the court may order the restoration of rights and obligations by ordering the suspect to do or not do something prescribed by law.
e. Decisions on annulment of official decisions. It must be announced in the state gazette.
f. If the court's decision concerns the obligation to pay a certain amount of money or the delivery of goods, the court can execute the assets in question. If the court decision concerns an order to do or not to do an act, the court can execute it using the civil procedure law mutatis mutadis.
g. In the event that the defendant does not heed the judge's order or does not comply with it within the specified time, then within the specified time, the complainant can take Action: Report the matter to him or to the Prime Minister as a correction, or Give coercion or stipulate a disciplinary action; or without examination, the court imposes a prison sentence on the grounds of contempt of court.

The comparison between the Indonesian and Thai PTUNs is described as follows: First, Thailand already has an executory institution that functionally carries out executions to litigants, while in Indonesia, there is no executory institution for PTUN decisions; Second, regarding the authority of the Thai administrative court to carry out real execution of administrative court decisions, namely by using the Civil Procedure Law mutatis mutandis against the assets of state administrative officials who ignore judicial decisions. In this concept, it is also clear that the exposition of the assets is the personal property of the TUN official who violates the state finance owned by the public institution where the TUN official works. Third, Thailand has a contempt of court mechanism for TUN officials who do not comply with judicial orders can be subject to serious sanctions, namely, the court can coerce or impose disciplinary actions against TUN officials concerned with the case or, without court examination, impose a prison sentence on the grounds of contempt of court.

For parties who do not carry out the order of the Thai administrative court, such action is considered an insult to the Thai administrative judicial institution (Wise, 2024). Meanwhile, in Indonesia, this is not known in the implementation of the TUN Court's decision because Thailand has a contempt of court mechanism for parties who ignore court orders, while Indonesia does not.

The Thai TUN Court procedurally has two levels of review. The Supreme Court of the TUN Court of Thailand is an independent special court, separate from the general court and other courts. The dual judicial system with its own supreme court is widely used in various countries such as the Netherlands and France. In general, the countries that implement the aforementioned systems have made rapid progress in developing highly sophisticated, effective, and respected legal systems.

2. German

The judicial system in Germany is quite complex, on the one hand, Germany is not included in the group that implements the "unity of jurisdiction" as is the case with the Anglo-Saxon countries, but on the other hand, Germany is also not completely the same as the French system which applies the system of "duality of jurisdiction" That is, what only distinguishes between the

structure of the General Court and the structure of the Administrative Court. The German system does not belong to the group of judicial duality or unity, but it does show the plurality of the judiciary, that is, the various structures of the judicial organization, all of which are included in one judicial power, which includes the general judiciary, the labor court, the administrative court, the tax court, and the social court.

Each of the five types of judicial bodies has its own organizational structure, and each court has a type of "Supreme Court" or Supreme Court. The five courts are known by the following terms: a. Bundesgerichtshof for general justice; b. Bundesverwaltungsgericht for administrative justice; Bundesfinanzhof for tax adjudication; d. Bundesarbeitsgericht for labour justice; and e. Bundessozialgericht for social justice.

In terms of judicial competence, the administrative judiciary in Germany can be said to be not too broad in its authority because it cannot review laws that affect the general public (Bignami, 2016). Similarly, disputes over claims for compensation against the government (government responsibility) are under the jurisdiction of the general court (civil).

The claim for compensation against the government regarding the principle of the Government's responsibility for its mistakes in its duties (faute de service) is regulated in the Civil Code, which has been in force since the 19th century, as stipulated in Article 839 of their Civil Code (B.G.B.). So, the compensation lawsuit was not filed with the Administrative Court but with the General/Civil Court.

In this German system, in addition to the obligation to pay compensation if the public official neglects his duties, it is also known that compensation must still be paid by the Government even if he does not commit negligence or mistake in carrying out his duties or even though the Government does not commit any unlawful act but he is also obliged to provide compensation, namely related to the issue of revocation of property rights for the public interest. This is the French system is known as the theory of "responsibility sans faute," and in the Dutch Administrative Law, it is meant by compensation for the result of "recitative overheidsdaden."

In order to maximize the role of the judiciary in the execution of judgments, the German system has 2 control bodies. The two institutions are the Public Prosecutor responsible for punishing civil servants/public officials, which was formed in 1952, and the Deputy Parliamentarian in charge of security and defense matters (Wehrbeauftragte des Bundestages), which was formed in 1957.

3. France

France is one of the countries in world history that pioneered the implementation of administrative justice, or TUN justice. In Napoleon's time, Bonaparte established a law known as the "Napoleon Code" that showed that the authorities could not oppress the people. Because citizens have the right to sue the government through the state administrative court. Napoleon Bonaparte sought to realize self-government by establishing an institution called the Conseil d'Etat. The Conseil d'Etat is the Council of State, one of the oldest institutions in France, and is the heart of the entire administrative court system.

In the French TUN court system, the TUN judicial structure is independent or separate from the general courts. The judicial system has 2 judicial systems, namely (1) a dual system of courts regarding ordinary courts / the ordre judiciare and (2) administrative courts (administrative courts/ordre administrative). The ordinary courts (ordre judiciare) end in the Court of Cassation or the Supreme Court (Cour de cassation), while the PTUN (administrative courts/administrative order) end in the Conseil d'Etat or the Council of State. This council was formed under Article 52 of the Act, approved on December 13, 1799.

In the French legal system, the government is liable for a variety of pre-existing conditions, including conditions that are not just faults but have caused harm to public services. The legal basis of this case is in Article 13 of the Declaration of the Rights of Man of 1789. Therefore, the element of a fault is the first element of liability to the State.

The legal jurisdiction of the French administrative courts includes the investigation and settlement of disputes between governments arising from the exercise of state power under public regulation (Vinokurov et al., 2022). Thus, citizens can sue all public administrative disputes between citizens and the government in French administrative courts. If the action concerns the annulment of an invalid government decision and is accepted by the court, then the government must take a new decision according to the law. The proceedings in the French Administrative Court are divided into lawsuits for annulment of decisions with claims for damages or class actions. French administrative courts adjudicate all government decisions or actions in the public interest based on public law provisions that can be sued before French administrative courts and are detrimental to society. So, the object of the dispute is related to government actions.

CONCLUSION

Many factors cause non-compliance of state administrative officials with state administrative court decisions that have permanent legal force, including court decisions Number: 06/G/2006/PTUN-BDG, which until now have not been executed by state administrative officials. This is due to (1). The absence of a special executory institution or sanctioning institution that functions to implement the decision, (2). There is a low level of awareness among TUN officials about obeying the TUN court decision; (3). There is no firmer regulation regarding the implementation of the PTUN decision. The other fundamental factor that is the most substantial is the legal substance of the execution of the judgment, which is both regulated in the PTUN law and the AP law. The difference in norms in the two laws causes confusion at the level of practice.

In contrast to Indonesia, several countries already have quite good legal instruments for implementing the execution of PTUN decisions. For example, Thailand already has an execution department in the structure of the Ministry of Justice called the Legal Execution Department, which handles the results of decisions on disputes. In addition, Thailand knows the term contempt of court, which if the defendant does not carry out the court decision, he can be sentenced to a criminal offense for this reason. Likewise, the German State, which also has a government control institution in charge, can sue the actions of the government or officials that are detrimental to the

public interest and be brought to court for trial. Meanwhile, the French state uses an administrative justice system that culminates in the conseil d'etat. Interestingly, France did not find any administrative officials who did not implement state administrative decisions; this is because of the self-awareness possessed by the state administrative officials; this is certainly inversely proportional to what is in Indonesia. France is also known as a country that has the authority and existence of the judiciary in the world.

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