

The Use Of The Erga Omnes Principle In The Implementation Of Decisions Of The State Administrative Court (PTUN) With Permanent Legal Power

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Abstract

Legal regulation The role of the State Administrative Court in the practice of settling government administration in Indonesia needs to be properly regulated, because in the implementation of the Administrative Court decisions according to Article 116 of Law no. 51 of 2009 concerning the Second Amendment to Law No. 5 of 1986 is a regulation regarding forced money which is not clear and there is no final settlement of a decision that has permanent legal force the execution cannot be carried out properly, and the absence of an executive or foundational institution strong law causes the decision of the State Administrative Court to have no power force. Even the State Administrative Court Law does not regulate firmly and clearly regarding the issue of the coercive power of the State Administrative Court's decision, so that in the implementation The decision really depends on the good faith of the State Administration Agency or Official in obey the law. This situation is quite alarming, because the principle of justice is State Administration, to put juridical control in the government to be lost meaning in the Indonesian constitutional bureaucratic system even though the decision should bind the disputing parties and have executive power when they already have a decision that has permanent legal force, according to the legal principle Erga omnes states that The decision of the State Administrative Court is publicly binding, not only binding on the disputing parties. This is a consequence of the nature of the state administrative dispute which is a public legal dispute, so that the Administrative Court Decision must bind all interested parties and have the obligation to comply with every decision; This research analyzes the problem, How about The existence of the Implementation of Administrative Court Decisions in the law enforcement system? And Has the execution of the Administrative Court Decision been effective in the law enforcement system. The research methodology used in this study is normative juridical with the approach used is the Statute Approach and the Case Approach, the approach carries out an assessment of laws and regulations related to the central theme of research with the procedure for collecting legal materials. Both Primary and secondary legal materials are collected based on the topic of the problem that has been formulated based on the Legislation which is reviewed comprehensively to provide new legal ideas for legal reform.

Keywords: Binding legal decisions, sanctions, disputes

I. INTRODUCTION

Indonesia is a state of law. As a state of law, it means that in our country, the law has an important meaning, especially in all aspects of people's lives. Indonesia has proclaimed its independence 70 years ago, precisely on August 17, 1945, since then Indonesia has also formally declared itself as a democratic legal state. This is stated in

the explanation of the 1945 Constitution stating that, Indonesia is a country based on law (*rechtsstaat*) and not a state based on mere power (*mochtaat*).¹

In Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it is stated that the State of Indonesia is a state of law. As one of the manifestations of Indonesia as a state based on law, 4 (four) judicial circles were formed as stated in Article 10 of Law Number 14 of 1970 jo. Law Number 35 of 1999 jo. Law Number 4 Year 2004 jo. Law Number 48 of 2009 concerning Judicial Powers, namely: ²1). General Court with Law Number 2 Year 1986 jo. Law No. 8 of 2004 jo. Law Number 49 Year 2009; 2). Religious Courts with Law Number 7 of 1989 jo. Law No. 3 of 2006 jo. Law Number 50 Year 2009; 3). Military Court by Law Number 31 of 1997; 4). State Administrative Court with Law Number 5 Year 1986 jo. Law No. 9 of 2004 jo. Law Number 51 Year 2009.

The presence of the TUN Court in the legal system Indonesian law cannot be separated from the influence understand the rule of law (*rechtsstaat* Continental European version which states the existence of the State Administrative Court as one of the main elements of the rule of law, in addition to 3 (three) other main elements, including the division of state power, protection of human rights, and government according to law (*rechtsmatigheid van het bestuur*). The idea of the division of power itself can actually be traced since Aristotle saw that the division of power is a condition for state order.³ Peratun which has the authority to carry out juridical supervision of state administrative actions that are considered detrimental to the rights of citizens Not others are a consequence of institutionalized thinking about the need for such a separation of powers. In the context of the provisions mentioned above, everyone who has a dispute in the Administrative Court expects a legal decision that has permanent legal force so that there is a final settlement obtained from the lawsuit submitted to the court. The final settlement is certainly not limited to a decision handed down by the judge on the dispute in the form of a decision that has permanent legal force, but the decision can be executed or can be executed.⁴

Basically, the execution of court decisions is a series of all procedural legal processes that are tangible in the form of coercive laws carried out by courts against parties who are declared defeated in a case and the court is authorized to carry out the execution of the decision. Execution or execution of a decision is an act carried out by force against the losing party in a case, who is not willing to voluntarily fulfill or carry out an order or court decision that has permanent legal force. In such a situation, if the defeated party is the defendant, then his position in the execution process becomes "the respondent is executed". Meanwhile, if the losing party in the case is the plaintiff,

usually even logically, there is no decision that needs to be executed. This is in accordance with the nature of the dispute and the status of the parties in a case.⁵

In the context of implementing the PTUN decisions that have been has permanent legal force, then the obligation that must be carried out by the defendant (TUN officials) can be:

- a. Revocation of the relevant State Administrative Decree; or
- b. Revocation of the relevant State Administrative Decree and issue a new Administrative decision; or
- c. Issuance of a State Administrative Decision in the event that a lawsuit is based on provisions of Article 3 UUPTUN.

The problem that often arises in practice is the difficulty of executing the TUN court decisions which have permanent legal force. Ideally, the TUN official who is sentenced to revoke his decision letter, or issue a new decision letter to implement it voluntarily. However, in practice, this ideal condition cannot be applied by TUN officials (defendant) who have been sentenced to refuse to carry out the PTUN decision voluntarily. The factor of submitting the PTUN decision to the TUN Official to carry out the decision voluntarily is the cause of the ineffective implementation of the PTUN decision which has permanent legal force. Based on the above problems, if it is related to the Erga Omnes principle, it is very contradictory in the implementation of the decision because the decision issued does not have the power to apply to the disputing parties, Based on the provisions of Article 116 Paragraph (6) of the Law Number 51 of 2009 About Second Amendment to Law Number 5 Year 1986 About the State Administrative Court⁶ which determines the existence of a mechanism for the execution of the TUN court decisions in the form of coercive measures and/or administrative sanctions against the Defendants (TUN officials) who do not carry out the TUN Court decisions as stipulated in Article 97 paragraph (9) sub b and c. Furthermore, the provisions of Article 116 paragraphs (3) and (4) state that:

- *Paragraph 3 "In the event that it is determined that the defendant must carry out his obligations as referred to in Article 97 paragraph (9) letters b and c, and then after 3 (three) months it turns out that the obligation was not carried out, the plaintiff filed a the application to the chairman of the court as referred to in paragraph (1) so that The court ordered the defendant to implement the court's decision.*
- *Paragraph 4, In the event that the defendant is not willing to carry out the court's decision that has been permanent legal force, the official concerned shall be subject to forced payments in the form of forced payments and/or administrative sanctions".*

The mechanism for applying forced money related to the execution of PTUN decisions in practice still causes problems, namely to whom the forced money

(dwangsom) is charged.. Is it to the finances of the relevant TUN official agency or to the finances/personal assets of the relevant TUN official (defendant) who does not want implement the decision of the TUN Court. Likewise, how much money must be paid by the defendant who does not want to obey the TUN court decision. In the description above, in fact there are still many in the implementation of court decisions which have permanent power (inkracht) which cannot be implemented in Indonesia, including: 1). The case of William B Noya-Adam Latuconsina who sued the Maluku KPUD in the Determination of the Maluku Governor Candidates. In the decision of PT. TUN Makassar dated October 18, Number: 94/G/201/PT.TUN. MKS and Ambon Administrative Court Decision Number: 5/G/2013/PTUN.ABN declared to cancel the SK. Maluku KPU Number: 16/Keps/KPU-Prov-028/IV/2013 was declared to have given up, by winning William B Jacky Noya-Adam Latuconsina.

And The decision of PT.TUN Makassar has permanent legal force (inkrach) which has been issued Decision No.05/PEN/G/2013/PTUN.ABN, dated December 6, 2013 by the Chairman of the PTUN Ambon in accordance with the orders of the Act (Vide Article 45A of the Law). Supreme Court Jo. SEMA No. 8 of 2011 dated December 29, 2011).2). The Supreme Court's decision numbered 65/P/U/2018 dated October 25, 2018 which stated that the Constitutional Court's decision would only take effect in the 2024 General Election. The Supreme Court's decision was strengthened by the decision of the Jakarta State Administrative Court (PTUN) Number 242/G/SPPU/2018/PTUN-Jakarta dated November 14, 2018 which strengthened and granted Osman Sapta Odang's lawsuit against the KPU, but immediately the decisions issued could not be executed and seemed to be ignored in the state system and other Administrative Court decisions that could not be executed to the maximum extent. This legal fact is concerning, because State Administrative Dispute is a public law dispute. So that the obligations for the Administrative Court Decisions remain valid and binding on the disputing parties, this is in accordance with the use of the erga omnes principle, which states that the validity of the judge's decision is binding publicly, in addition to binding the disputing parties (inter pares), it is also binding on anyone. outside the parties to the dispute.

II. METHODS

The research method used in this research is normative juridical research using the statute approach, the concept approach and the case approach.⁷ therefore the target of this research is law or norm. The definition of rules includes legal principles, rules in a narrow sense (value), concrete legal regulations, In this study about: *The Use of the Erga Omnes Principle in the Arrangement of Execution of Administrative Court Decisions which have Permanent Legal Force*, which is objected to normative law in

the form of legal principles and the legal system, which is more concerned with statutory regulations, legal theories, documents, and related articles.

III. RESULT AND DISCUSSION

a. The Existence of the Implementation of the Decision of the State Administrative Court ("PTUN")

The existence of the State Administrative Court (PTUN), philosophically in the construction of a legal state is to provide legal protection for individual rights and the rights of the general public so that harmony, harmony, balance, and dynamics and harmonization of relations between citizens and the state are achieved. in this case the State Administration Officer. The harmonization includes the existence of an equal position between the public and citizens, especially the guarantee of the value of justice in a State Administrative Decision (*beschikking*) issued by public officials against citizens. Basically, The purpose of holding a process in court is to obtain a judge's decision.⁸The judge's decision or commonly referred to as a court decision is something that is highly desired or awaited by the litigants in order to resolve the dispute between them as well as possible. Because with the judge's decision, the disputing parties expect legal certainty and justice in the cases they face.⁹In principle, only the judge's decision has permanent legal force and can be executed. A decision can be said to have permanent legal force if the decision contains a form of permanent and definite legal relationship between the litigating parties because the legal relationship must be obeyed and must be fulfilled by the defendant.

So that Decisions that already have permanent legal force are decisions which according to the provisions of the law there is no longer an opportunity to use ordinary legal remedies against the decision, while decisions that do not yet have permanent legal force are decisions which according to the provisions of the law are still open to using legal efforts to fight the decision, for example *verzet*, appeal and cassation. The convicted party (the defendant) is required to comply with and fulfill its obligations listed in the decision which has permanent legal force voluntarily. A voluntary decision is when the losing party voluntarily fulfills itself perfectly in carrying out the contents of the decision. However, it is possible that the decision will not be implemented by one of the parties, because in the future one of the parties is dissatisfied with the decision, then what will happen is the denial or denial of the decision. A denial is a form of an act that does not want to do what it should do or which is an obligation. The judge's decision, according to Sudikno Mertokusumo, is a statement which the judge, as the authorized official, pronounces at the trial and aims to end or resolve a case or a dispute between the parties. Judging from its content, decisions can be qualified to declaratoir decisions, constitutief decisions, and *condemnatoir* decisions.

The declaratory decision contains a statement of the existing legal situation and does not give rise to new legal conditions.

Constitutive decisions is a decision that creates a new legal situation or nullifies the old legal situation, once the decision has permanent legal force, a new legal situation has occurred. A condemnatory decision is a decision that contains punishment or the obligation to carry out something. In the decision of the State Administrative Court (PTUN) there are times when a decision that is condemnatory can also be a constitutive decision. The statement that a decision is void or invalid is *ex tunc*, only declaratory. Decisions that are constitutive in nature, for example, are decisions on the imposition of compensation payments, the imposition of carrying out rehabilitation and the determination to postpone the implementation of the State Administrative Decree (KTUN), which results in a temporary delay in the enforcement of a government decision. Decisions that are constitutive, even though they create a new legal situation or negate the old legal situation, cannot be implemented immediately and require a sentencing decision as a follow-up so that the material for the constitutive decision becomes real. Therefore, what is relevant for implementation is a condemnatory decision.¹⁰ the decisions that are condemnatory include:

- a. Obligation to revoke administrative decisions that have been declared void (Article 97 paragraph (9) letter a);
- b. Obligation to revoke administrative decisions and issue replacement decisions (Article 97 paragraph (9) letter b);
- c. The obligation to issue a decision in the event that the object of dispute is a negative fictitious decision (Article 97 paragraph (9) letter c);
- d. Obligation to pay compensation (Article 97 paragraph (10));
- e. Obligation to carry out rehabilitation and pay compensation in employment disputes (Article 97 paragraph (11))

The final decision is the decision handed down by the judge after the examination of the state administrative dispute is completed which ends the dispute. In Article 97 paragraph (2) it is known that the final decision can be in the form of:

- a. A rejected lawsuit is a decision in the form of a rejected lawsuit is a decision stating that a State Administrative Decision that gives rise to a state administrative dispute is a State Administrative Decision which is not declared null and void.
- b. A lawsuit not accepted is a decision in the form of a lawsuit not being accepted, a decision stating that the conditions that have been determined have not been fulfilled by the lawsuit filed by the Plaintiff. The dictum of this decision is actually declaratory, which does not bring about any changes in the existing legal relationship between the plaintiff and the defendant.

c. A void lawsuit is a decision in the form of an aborted lawsuit is a decision handed down by a judge because the plaintiff is not present at several hearings, even though he has been duly summoned or the plaintiff has died.

d. A lawsuit granted is a decision in the form of a lawsuit granted is a decision that states that a State Administrative Decision that gives rise to a State Administrative Dispute is a State Administrative Decision which is declared invalid or void.

The implementation of the PTUN (execution) decision is a rule regarding the methods and conditions used by state equipment to assist interested parties in carrying out the judge's decision if the losing party is not willing to comply with the contents of the decision within the specified time. Execution can be interpreted as a follow-up action in terms of implementing a court decision that already has permanent legal force (*inkracht*). As specified in paragraph (3) article 116 of Law Number 9 of 2004, which requires the defendant d to carry out his obligation to revoke the State Administrative Decree (KTUN) and issue a new KTUN or issue a KTUN in the event that the object of a fictitious lawsuit is negative and then after 3 (three) months since the decision was delivered to the defendant according to Law Number 51 of 2009, Based on this, the execution of the Administrative Court Decision as regulated in Article 116 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court, Legally, formally, it has provided coercive power or effort for the State Administrative Court (PTUN) to implement its decision.

However, it is only limited to the basic regulation of the execution or decision of the State Administrative Court, because the mechanism and procedure for its implementation have not been further regulated in laws and regulations, so it is felt that the provisions of the three State Administrative Court Laws, especially Article 116 of the Law Number 51 of 2009 is still not effective in the execution of decisions in the State Administrative Court so that pThe implementation of court decisions that have permanent power (*inkracht*) cannot be carried out properly for this justice-seeking community in Indonesia.¹¹ Legal decisions that have permanent legal force (*Inkracht*) should be able to be executed, so that justice-seeking people can obtain justice that is actually in accordance with the legal objectives intended by the law. Gustav Radbruch, who stated that the purpose of law must contain 3 (three) identity values, namely 1). The principle of legal certainty (*rechtmatigheid*), this principle is reviewed from a juridical point of view; 2) The principle of legal justice (*gerechtigheid*), this principle reviews from a philosophical point of view, where justice is equal rights for all before the court; and 3). The principle of legal expediency (*zwech matigheid* or *doelmatigheid* or utility).¹²

Legal certainty normatively what is meant in the existence of the Implementation of the Decision of the State Administrative Court ("PTUN") in the law

enforcement system is when a statutory regulation is made and promulgated with certainty in a court decision, because it regulates clearly and logically, it will not cause doubt because the existence of multiple interpretations of the enactment of a decision that has coercive power so that it does not conflict or cause a conflict of norms. Norm conflicts arising from the uncertainty of laws and regulations can take the form of norm contestation, norm reduction, or norm distortion. According to Hans Kelsen, law is a system of norms. Norms are statements that emphasize aspects of "should" or *das sollen*, by including some rules about what must be done. Norms are the product of deliberative human action. Laws containing general rules serve as guidelines for individuals to behave in society, both in relation to fellow individuals and in relation to society. These rules become limitations for society in burdening or taking action against individuals. The existence of these rules and the implementation of these rules create legal uncertainty in law enforcement.¹³

The implementation of the PTUN decision should provide a sense of justice for people who become justice, as legal justice According to LJ Van Apeldoorn, it should not be considered the same as equalization, justice does not mean that everyone gets an equal share.¹⁴he means that justice demands that each case must be weighed separately, meaning that what is fair to one person is not necessarily fair to another. Because the purpose of law is to regulate peaceful life if it leads to a just regulation, meaning a regulation in which there is a balance between protected interests, and everyone gets as much as possible who is part of it. Satjipto Rahardjo "formulated the concept of justice how to create justice based on the values of balance on equal rights and obligations." However, attention must also be paid to the suitability of the mechanisms used by law, by making and issuing legal regulations and then applying sanctions to community members based on the regulations that have been made. What actions can and cannot be done are substantive. However, regulations must also be issued that regulate the procedures and rules for implementing these substantive regulations, which are procedural in nature.¹⁵Therefore, clearer arrangements for the implementation of decisions of the State Administrative Court which have legal force which must still be formulated correctly in execution in order to provide legal certainty and justice for a society seeking justice at the State Administrative Court;

b. Legal Implications for Executing Administrative Court Decisions that have not been effective.

Court decisions that have permanent legal force are what everyone who has a dispute hopes for and aims to obtain a final settlement based on a lawsuit filed in court. When the defendant and the plaintiff have given a statement that they have accepted the decision issued and during the specified time do not file a legal action, then the

decision has permanent legal force.¹⁶ Decisions that already have legal force remain valid for anyone (*erga omnes*), so that the decision must be implemented by both the plaintiff and the defendant. The decision not only aims to resolve the dispute between the defendant and the plaintiff, but also pays attention to the interests and interests of the plaintiff broader rights, both directly and indirectly involved in the litigation.¹⁷

Justice seekers certainly do not want the resulting decision to be limited to paper, in other words, decisions that have permanent legal force must be implemented or executed properly. The regulation regarding the execution of the PTUN decision which has permanent legal force is stated in Article 116 Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Court, where the clerk submits a decision which has permanent legal force or not to the parties to the dispute, then when the party who becomes the defendant does not carry out the obligations stated in the decision after 60 (sixty) days, the decision loses legal force, so that the party who becomes the defendant the plaintiff is obliged to submit an application to the court regarding the order for the obligation to implement the decision to the defendant. If after that the defendant still does not carry out his obligations, the defendant will be subject to coercive measures in the form of forced money or administrative sanctions and if after that the official still does not carry out the PTUN decision,

However, in the regulation regarding the execution, there are legal implications that hinder the effectiveness of the settlement of state administrative disputes. One implication is that the regulation regarding forced money is still unclear, which does not regulate how much forced money must be paid, to whom the forced money is charged and where is the source of financing when it is charged to the government agency or agency TUN official. Even though there is PP No. 43 Year 1991 concerning Compensation and Procedures for Its Implementation at the State Administrative Court and Decree of the Minister of Finance of the Republic of Indonesia No. 1129/KM.01/1991 concerning Compensation and Procedures for Its Implementation in the State Administrative Court, but it is a rubber article because it is very possible to postpone it for several fiscal years. In addition, the last execution mechanism when the TUN official does not carry out the PTUN decision is the chairman of the court submits to the president to instruct the official to carry out the decision also has legal implications, namely if the President silences the effort, there will be no final settlement of the decision which has permanent legal force. The. With various legal implications that arise from this arrangement, the settlement of state administrative disputes has also become ineffective. Even in several cases, it is indicated that many officials dare to subtly pressure judges in the media by implying warnings about orders or decisions of the case which are considered to be dangerous for social or political

stability. This shows that political considerations can influence a number of decisions.
18

The existence of personal interests from officials and the lack of awareness of the law also have a big influence because normatively the execution of PTUN decisions is more likely to be self-aware of state administration officials.¹⁹The positions held by officials are actually a mandate that must be legally and morally accountable. However, there has been no full agreement from the highest government bureaucracy to the lowest to obey and comply voluntarily and sincerely without coercive efforts to implement the PTUN decision which has permanent legal force.

The ineffectiveness of the regulation regarding the execution of the PTUN decision is certainly a big problem for the existence of the PTUN in the future. This will more or less affect the PTUN's authority, abuse the PTUN, and if this continues to happen repeatedly, the public's trust in the PTUN will decrease and will lead to public actions that tend to take justice into their own hands.²⁰In Article 116 Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Court, paragraphs (3) to (6) have changed the mechanism for implementing State Administrative Court Decisions (execution). "Hierarchical execution" becomes "forced attempt execution". This change is a correction to the weak power of the judiciary that is given legislation and is considered unable to put pressure on officials or government bodies to implement decisions. Article 116 paragraph (4) and paragraph (5) Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Court, recognizes 3 (three) forms of "forced efforts", namely:

1. Obligation to pay a forced amount of money;
2. Imposition of administrative sanctions;
3. Publication of officials who do not implement decisions in the mass media.

The mechanism of "forced effort" in the amendment of Article 116 paragraph (3) to paragraph (6) of Law Number 51 of 2009 is regulated briefly, only one time found the terms "forced money", "administrative sanctions" and "announcement of officials who do not implement decisions on local print media" in Law Number 51 of 2009 has given more regulatory powers to unclear bodies, only mentioning that it is regulated by statutory regulations. Punishment sanctions as described above can be interpreted as an effort to improve and enhance the image and existence of the State Administrative Court in a society that has been very apathetic about getting justice through the State Administrative Court. In accordance with the context of law enforcement, the success or failure of law enforcement depends on whether or not each court decision has permanent legal force. This is the measure of whether the law really

exists and is applied consistently and purely in a state of law. Whereas the control function of the judicial institutions carried out by the State Administrative Court against government actions as a form of protection of the rights of citizens, as regulated in Article 53 of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning Administrative Courts State Enterprises (Law 9/2004) which reads

1. Persons or civil legal entities who feel that their interests have been harmed by a State Administrative Decree may file a written lawsuit to the competent court containing a demand that the disputed State Administrative Decision be declared null or void, with or without a claim for compensation and/or rehabilitated.

2. The reasons that can be used in the lawsuit as referred to in paragraph (1) are:

a. The State Administrative Decision being sued is contrary to the prevailing laws and regulations;

b. The State Administrative Decision being sued is contrary to the general principles of good governance.

The legal provisions referred to are intended to create good government, with the existence of general principles of good governance (*algemene beginselen van behoorlijk bestuur*) as a touchstone to test the validity of a government action in addition to the prevailing laws and regulations. However, although the establishment of the State Administrative Court is an advanced idea in the context of realizing a modern legal state. However, the problem for nearly 36 (thirty six) years of the existence of the State Administrative Court is the execution of the decisions of the State Administrative Court. The role of the State Administrative Court in the practice of resolving government disputes in Indonesia due to the absence of an executorial institution, as well as a strong legal basis, has resulted in the decision of the State

Administrative Court not having coercive power. does not regulate firmly and clearly regarding the issue of coercive power of State Administrative Court decisions, so that the implementation of the Decision really depends on the good faith of the State Administrative Agency or Official in obeying the law. This situation is quite alarming, when faced with several legal problems that occur, because the principle of the existence of a State Administrative Court can place juridical control in the government. The use of the *Erga Omnes* principle should be the basis in the implementation of every PTUN decision, so that the interests of the community who are harmed by the TUN official's decision must be accountable to everyone who is dissatisfied with the TUN decision. implemented by the parties.

IV. CONCLUSION

The conclusion of this research is

1. The use of the *Erga Omnes* principle in the implementation of PTUN decisions can provide legal certainty for the community who becomes justice because: The

implementation of decisions in administrative law is a determinant of the success of the judicial control system on the attitude of government actions and the system of community protection. This is because if the content of the administrative court decision will not be of much benefit and justice for the community if the decision does not have binding force, because the community's efforts to seek justice have spent a lot of time, energy and costs will be in vain without benefits, so that Arrangements for the execution of PTUN decisions in the Administrative Court Law as stated in article 116(5) Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Court which has legal implications for the effectiveness of the settlement of state administrative disputes in Indonesia can be properly regulated, due to the regulation of execution of decisions regarding forced money is still not clear, so it is very important that the Administrative Court Decision has binding force and applies to everyone who is in a litigation, where PP No. 43 of 1991 concerning Compensation and Procedures for Its Implementation at the State Administrative Court is still a rubber article because it is very possible to be postponed until it is necessary to have stricter legal arrangements such as implementing the execution of decisions in civil cases.

2. Implementation Arrangements for the execution of State Administrative Court Decisions, must describe The role of the State Administrative Court in the practice of dispute resolution "Government administration in Indonesia, found Several problems were found in connection with execution efforts TUN Court decisions that have not been clearly regulated in the Administrative Court Law, namely the execution mechanism adopted is still floating, there is no final settlement in the implementation of the TUN Court decision that has been obtain permanent legal force, this kind of problem is also faced by execution model through superior agencies which so far cannot be executed. Regarding the forced money, to whom was the forced money charged, and how much money must be paid, where is the source of financing? if it is charged to a government agency or agency TUN officials the, This situation is quite alarming, because the principle of the existence of a State Administrative Court, to place juridical control in government, has lost its meaning in the Indonesian constitutional bureaucratic system.

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