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The Expansion in the Competence of PTUN Jakarta on Binding KTUN Dispute Decisions

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Abstract
This legal research aims to identify and analyze the competence of Jakarta state administrative court decisions in the institution's judicial power system. This research method is normative law research with a Statute Approach that prioritizes the legal material of legislation related to the problems that are being faced to get the main answers to the problems formulated. The results of this study found, first, Jakarta State Administrative Court have competence in adjudicating disputes over bound state administrative decisions. Second, the object of the dispute being tried becomes a new context in the authority of the state administrative court. Third, the decision to cancel the State Administrative Decision is bound automatically removes the form of state administrative decisions that cause.
Keywords: Competence; Decision; Dispute.

1. Introduction

The concept of the Indonesian state of law according to Mahfud MD adheres to a prismatic concept, namely the incorporation of good elements from various concepts into one integrative concept whose implementation is adjusted to the demands of development. The reinforcement of this conception is to uphold law and justice.[1] One of the characteristics inherent in the rule of law is the existence of a form of control over the judicial supervision of the administrative court or the State Administrative Court against government actions.[2] Regarding the existence of an administrative court as one of the characteristics of the rule of law, Philipus M. Hadjon said that in essence administrative law is an instrument of the rule of law. With this concept, the measure or indication of the rule of law is the functioning of administrative law or the State Administrative Court. On the other hand, a state is not a state of the law in reality if the administrative law does not function.[3]

The State Administrative Court is one of the judicial bodies under the Supreme Court as part of the system of implementing judicial power in Indonesia. The fundamental thing for the establishment of the State Administrative Court is to protect people seeking justice, who feel disadvantaged because of the issuance of a State Administrative Decree. The State Administrative Court is a form of supervision carried out by the judicial authority on State Administrative Decisions issued by the government or government officials, both in terms of legality, and administration,

[1] Adam Muhshi (2015) *Teologi Konstitusi Hukum Hak Asasi Manusia Atas Kebebasan Beragama di Indonesia*, LKiS Pelangi Aksara, Yogyakarta, p. 15-16
[2] Farah Syah Rezah (2018) *Hukum Acara Peradilan Tata Usaha Negara*, Publisher, Makassar, p. 3
[3] Titik Triwulan Tutik, 2016, *Kontruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*, Kencana, p. 6.

so that parties who feel aggrieved by the issuance of the State Administrative Decree can file a lawsuit in the state administrative court.[4]

The function of the State Administrative Court is to resolve conflicts or disputes that arise between the government (State Administrative Agency or Official) and the people (individual or civil legal entity) as a result of the issuance of a State Administrative Ruling.[5] Disputed state administrative decisions according to the Law on State Administrative Courts are decisions resulting from legal actions that can be taken by officials or State Administration bodies including extreme, public, one-sided, individual, and concrete State Administrative legal actions that can be the object of dispute. All government actions by state agencies or officials must be tested against appropriate and proper norms.[6]

In line with this, as an effort to uphold the rule of law and to obtain a healthy state administration, justice seekers should be given the right to legal protection from administrative actions or government actions that are *onjuist, onwetmatig, ondoelmatig,* and *onrechmatig.* In this case, citizens who feel aggrieved as a result of the issuance or not issuance of the said State Administrative Decree (*beschikking*) are given the legal right to be able to file a lawsuit to the State Administrative Court by the absolute competence and relative competence of the State Administrative Court concerned.[7]

For example, the case of the lawsuit that occurred in the Jakarta Administrative Court over the dispute over the Presidential Decree regarding the dismissal of members of the General Election Commission. Starting on March 18, 2020, the DKPP issued Decision Number 317-PKE-DKPP/X/2019 which essentially imposed a permanent dismissal of Evi Novida Ginting Manik as a KPU member.[8] As a follow-up to DKPP Decision Number 317-PKE-DKPP/X/2019, the President of the Republic of Indonesia then issued a Presidential Decree Number 34/P of 2020 concerning Disrespectful Dismissal of Members of the General Election Commission for the 2017-2022 term.

Assume that his legal rights have been harmed by the issuance of this Presidential Decree, on April 19, 2020, Evi Novida Ginting Manik then sued the Presidential Decree No. 34/P of 2020 in the Administrative Court regarding the Disrespectful Dismissal of Members of the General Election Commission for the 2017-2022 term. Through his lawsuit, he asked the Jakarta Administrative Court to declare Presidential Decree Number 34/P of 2020 based on DKPP's Decision Number 317-PKE-DKPP/X/2019 regarding his dismissal as null and void. He also asked the Jakarta Administrative Court to order the President to revoke Presidential Decree No. 34/P of 2020.[9]

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[4] Annger Sigit Pramukti & Meylani Cahyaningsih, (2016) *Pengawasan Hukum Terhadap Aparatur Negara*, Pustaka Yustisia, Yogyakarta, p. 110-111.

[5] Eko Sugiarto, Tjondro Tirtamulia, (2012) *Hukum Acara Peradilan Tata Usaha Negara*, Briliant Internasional, Surabaya, p.2-3

[6] *Ibid*

[7] Enny Agustina, (2018) *Perlindungan Hukum Bagi Pencari Keadilan Melalui Peradilan Tata Usaha Negara (PTUN)*, Jurnal Fiat Justicia, Vol.4 No.1, Edisi April, , p. 32-33

[8] Moch. Nurhasim, (2020) *Distorsi dan Problematik Pemilu Serentak 2019*, Airlangga Univercity Press, p. 198

[9] https://www. Hukumonline.com/berita/baca/lt5e74866b08227/respons-ujungan-berhentian-dkpp--evi-novida-prepare a lawsuit/ accessed on 22/8/2022.

The Jakarta State Administrative Court then fully granted Evi Novita Ginting Manik's claim and declared the Presidential Decree of the Republic of Indonesia Number 34/P. The year 2020 is null and void and required the defendant to revoke and rehabilitate the plaintiff's good name and position as a KPU member before being dismissed.[10] Regarding the writing of the Administrative Court Decision, the author found Ida Bariyati's research paper which discussed the Judicial Analysis of the Implementation of the Administrative Court Decision on Personnel Disputes at the Dikpora Office of Tegal Regency.[11] Another writer, Achmadudin Rajabi, on the Analysis of Permanent Dismissal of Election Organizers by the DKPP RI discusses the level of DKPP decisions so that they can be used as objects of state administration disputes in the PTUN.[12]

Starting from the description above, the author is interested in examining the basis for consideration of the Jakarta Administrative Court judge's decision which granted the plaintiff's claim in its entirety and cancelled the Presidential Decree Number 34/P of 2020 as a bound KTUN which was motivated by the DKPP decision Number 317/2019 as the causative KTUN.

2. Research Methods

This research is normative, namely research that focuses on written studies using secondary data such as legislation, court decisions, legal theories, and legal principles, and can be in the form of scholarly works (doctrine).[13] The approach used in this study is, first, the Statute Approach, which is research that prioritizes legal materials and legislation related to the problems or legal issues being faced as basic reference material in conducting research.[14] Second, is the Case Approach, which is an approach to examining cases related to the legal issues at hand. The case study is a case that has obtained a court decision with permanent legal force. The main thing studied is the judge's consideration to decide so that it can be used as an argument in solving the legal issues faced.[15]

3. Results and Discussion

3.1. The Expansion in the Competence of PTUN Jakarta on Binding KTUN Dispute Decisions

[10] https://ujungan3.mahkamahagung.go.id/direktori/ujungan/2426a83ee110cf666626923f0753c1ed.html accessed on 22/08/2022

[11] Bariyati, I. (2016). *Analisis Yuridis Pelaksanaan Putusan Ptun Tentang Sengketa Kepegawaian Di Dinas Dikpora Kabupaten Tegal (Studi Kasus Terhadap Putusan Ptun Nomor: 67/G/2012/Ptun. Smg Jo. Nomor: 57/B/2012/Pt. Tun. Sby Jo. Nomor: 411/K/2013)* (Doctoral dissertation, Fakultas Hukum UNISSULA). http://repository.unissula.ac.id/5544/, accessed on 08/25/2022

[12] Rajabi, A. (2020). *Analisis Kekurangan Perpu No. 2 Year 2020 Dari Sisi UU No. 12 Year 2011 Jo.* UU No. 15 Year 2019. https://rechtsvinding.bphn.go.id/view/view_online.php?id=298, accessed on 08/25/2022

[13] Irwansyah, (2021) *Penelitan Hukum Pilihan Metode & Praktik Penulisan* Artikel, Mirra Buana Media, Yogyakarta, p.98

[14] Ibid, p. 133

[15] Ibid, p. 138

The basis for the judge's consideration of the submission of the object of the disputed State Administrative Court is based on Article 25 paragraphs (1) and (5) of Act No. 48 of 2009, as well as Articles 4 and 47 of Act No. 5 of 1986, and the provisions regarding the State Administrative Court Decision and State Administration Disputes regulated in Article 1 paragraphs (9) and (10) of Act No. 51 of 2009, as well as regarding the expansion of the definition of State Administration disputes in Act No. 30 of 2014 concerning government administration.

In his consideration, the judge considered that the object of the lawsuit filed was a written, concrete, individual and final decision on the dishonourable dismissal of Evi Novida Ginting Manik as a member of the KPU for the 2017-2022 term. So that the decision has legal consequences, namely the definitive dismissal of the positions of KPU members. In addition, the issuance of a decision to dismiss the President as a TUN body/official is to carry out government functions. Then the next legal consideration is that the object of this lawsuit is published based on DKPP Decision Number 317/2019. The judge views that the position of the DKPP institution is not an institution of judicial power, therefore the form of the DKPP's decision is not excluded as an object of TUN disputes and is mutatis mutandis an object of government administrative disputes, as the definition of the said TUN dispute has been expanded through Act No. 30 of 2004.

In Article 54 of the Act. No. 30 of 2014 concerning Government Administration stipulates that Decisions include decisions that are constitutive, or declarative. Declarative decisions are the responsibility of Government Officials who make constitutive decisions. Based on these provisions, the judge sees the decision of the object of a dispute as a declarative decision, and the decision of the DKPP that underlies the issuance of the object of the dispute is seen as a constitutive decision, then automatically, the validity or legality of the issuance of the object of the dispute is determined absolutely by the validity or legality of the decision of the DKPP. Thus, this is the authority of the TUN judiciary.

The judge referred to in the Constitutional Court's Decision No. 31/PUU-XI/2013 regarding the position of DKPP cannot be separated from the Constitutional Court Decision No. 115/PHPU.D-XI/2013 which states that DKPP is a state administrative organ that is not a judicial institution as referred to in Article 24 of the 1945 Constitution which has independent powers to enforce law and justice.

The judge, in this case, is of the view that, based on the principle of the rule of law as the fundamental state of the Republic of Indonesia, juridical control is a fundamental necessity, so that the use of authority by every government administrator, because of law enforcement or ethics is not in a vacuum, the use of authority automatically always followed by legal liability. Quoting Belifante's opinion, that the relationship between responsibility and the use of authority by "*Niemand is bevoegheid uitoefenen Zonder verantwoording schuldig te zijn of zonder dat op die uitoefening controle bestaan"* (no one can exercise authority without assuming responsibility or without carrying out supervision). In line with that, the principles of implementing Government Administration include (a) the principle of legality; (b) the principle of protection of human rights; and (c) general principles of good governance as stipulated in Article 5 of Act No. 30 of 2014.

The judge was of the view that, the choice and legal political design of the legislators on the predicate of the final and binding DKPP decision is not synonymous with immunity for DKPP, empirical facts open up testing space for DKPP decisions both directly and indirectly as confirmed by the consideration of the Constitutional Court's decision and confirmed itself by the practice of the TUN Judiciary so that the principle of *cursus curiae est lex curiae*, judicial practice is the law for the court. Therefore, to overcome the limitations of the norms mentioned above, Article 54 of the UUAP paragraph (2) of Act No. 30 of 2014 is related to Article 14 letter (m) of Act No. 7 of 2017, and then the phrase of responsibility of Government Officials is determined.

It cannot be interpreted solely in the context of identifying the legal subject of liability for a decision, but more broadly than that, especially in this dispute, the responsibility of the official who issued the constitutive decision does not in itself relieve the responsibility of the official who issued the declarative decision. Because these two decisions cannot be separated from each other (two sides of one coin), the Court believes that both cannot be separated from legal responsibility as referred to in Article 54 of Act No. 30 of 2014 concerning Government Administration, so that if a juridical defect (*juridische gebreken*) is found between one of the two decisions, it will result in the cancellation or invalidity of the other decisions.

It can be seen that these two decisions cannot be separated from each other (two sides of one coin), the Court believes that both cannot be separated from legal responsibility as referred to in Article 54 of Act No. 30 of 2014 concerning Government Administration, so that if a juridical defect *(juridische gebreken)* is found between one of the two decisions, it will result in the cancellation or invalidity of the other decisions. Because these two decisions cannot be separated from each other (two sides of one coin), the Court believes that both cannot be separated from legal responsibility as referred to in Article 54 of Act No. 30 of 2014 concerning Government Administration, so that if a juridical defect *(juridische gebreken)* is found between one of the two decisions, it will result in the cancellation or invalidity of the other decisions.

The judge is of the view that, because the validity of the Presidential Decree and the DKPP's decision in the context of this dispute cannot be separated from each other, then to test whether the decision on the object of the dispute has been issued by the laws and regulations and general principles of good governance, the judicial review by the court is limited. from the authority and procedural aspects, while the substance aspect is excluded from the examination. Based on respect for the DKPP as a TUN organ that carries out quasi-judicial functions.

Based on the description of the considerations, the Court thinks that the decision of DKPP No. 317/2019 contradicts Article 24 of Act No. 30 of 2014 concerning Government Administration and Article 458 paragraph (3), paragraph (4), paragraph (5) and paragraph (8) of Act No. 7 of 2017 concerning Elections as well as Article 36 of DKPP Regulation No. 2 of 2019, especially with the general principles of good governance, especially the principle of legal certainty, the principle of accuracy, the principle of openness, the principle of public interest and the principle of good service. Base on the decision of DKPP No. 317/2019 which is the basis for the issuance of the decision on the object of dispute contains a juridical defect because it is contrary to the laws and regulations as well as the general

principles of good governance as referred to above, then ipso facto by the fact itself automatically the validity of the presidential decision is not fulfilled legally.

In this dispute case, the court judge has considered all the evidence submitted by the parties. Taking into account the Law of the Republic of Indonesia Number 5 of 1986 as last amended by the Law of the Republic of Indonesia Number 51 of 2009 concerning the Second Amendment to the Law of the Republic of Indonesia Number 5 of 1986 concerning the State Administrative Court, Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration as well as statutory regulations and other relevant legal provisions.

3.2. Judicial Power

An independent judicial power implies that the judicial power is free from any interference from the extra-judicial powers, except in matters as stated in the 1945 Constitution of the Republic of Indonesia. Freedom in exercising judicial authority is not absolute because the task of judges is to enforce law and justice based on Pancasila so that the decision reflects the sense of justice of the Indonesian people.[16]

According to Sudikno Mertukusumo, the freedom of judicial power whose implementation is left to judicial bodies is one of the characteristics of a state of law. In essence, this freedom is an innate characteristic of every judiciary.[17] Paul Effendie Lotulung defines the phrase "freedom to administer justice" as freedom from the influence of the executive or other state powers and freedom from coercion, directives or recommendations that come from extra-judicial parties, except in cases permitted by law. Likewise, the meaning of independent and free judicial power also includes freedom from judicial internal influences in making decisions.[18]

Although in principle judges are free and independent, the freedom of judges is not absolute because in carrying out their judges' duties are micro-limited by Pancasila, the 1945 Constitution, statutory regulations, the will of the parties, public order and morality. Thus, the limitations or signs that must be remembered and considered in the implementation of freedom are mainly the rules of the law themselves. Legal provisions both in terms of procedural and substantial or material are limitations so that in exercising their independence they do not violate the law and are not arbitrary. Judges are subordinated to the law and cannot act *against legem*.[19]

Indonesia as a state of the law has guaranteed an independent judicial power to uphold law and justice, the implementation of which is carried out by judicial bodies that have the freedom and independence of the judiciary, and their duties and responsibilities are carried out by judicial judges who are always given guarantees of independence and independence freedom to make fair decisions. The existence of the principle of independence and freedom of authority is a manifestation of the dignity and legal position that is upheld in the Indonesian legal state.

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[16] Elucidation of Article 1 of Law Number 4 of 2004 of Judicial Power
[17] Sudikno Mertokusumo,(2018) *Hukum Acara Perdata Indonesia*, Cahaya Atma Pusaka, p. 20
[18] Dahlan Sinaga, (2020) *Kemandirian dan Kebebasan Hakim Memutus Perkara Pidana dalam Negara Hukum Pancasila*, Nusa Media, Bandung, p.18
[19] Amran Suadi, (2014) *Sistem Pengawasan Badan Peradilan*, Rajawali Press Depok, p. 239

3.3. Competence of State Administrative Judges

The existence of a judicial body cannot be separated from the competence of a judiciary. As is the case with the State Administrative Court which has the authority to examine, hear and decide a case related to the type and level of the existing court, based on the applicable laws and regulations. Competence or authority of a court body to adjudicate a case can be distinguished into relative competence and absolute competence.[20]

M. Yahya Harahap Formulate clearer criteria for delimitation between relative competence and absolute competence. In relative competence, the limitation of the authority to judge based on the legal area of each judicial body in an environment has determined the boundaries of its legal area. In absolute competence, the limitation of the authority to judge is based on the jurisdiction to try judicial bodies. Each judicial body has been determined by the law the limits of the jurisdiction to adjudicate. Restrictions on the jurisdiction of each judicial body may refer to various statutory provisions.[21]

Thus, the absolute competence of the State Administrative Court is the authority to adjudicate a case based on the object of the State Administrative dispute, while the relative competence of the State Administrative Court is the authority to adjudicate based on the division of each jurisdiction according to the law. In the Law on the State Administrative Court formulated, the absolute competence of the State Administrative Court by the provisions of Article 47 of Act No. 5 of 1986 is to examine, decide and resolve State administrative disputes. Meanwhile, relative competence in Article 54 paragraph (1) of Act No. 5 the Year 1986. Act No. 9 of 2004 states that a lawsuit for a State Administrative dispute is submitted to the competent court whose jurisdiction covers the domicile of the defendant.

3.4. The Expansion on Matter of the Dispute

A State Administrative Dispute is a dispute between a person or a civil legal entity as a plaintiff against a state administrative body or official as a defendant. Article 1 Paragraph (4) of Act No. 5 of 1986 explains that a State Administrative Dispute is a dispute that arises in the field of State Administration between a person or a civil legal entity and a State Administration Agency or Official, both at the centre and in the regions, as a result of the issuance of a State Administrative Decree.[22] In terms of the settlement of State Administrative Disputes, it must be resolved through administrative efforts first, if based on the applicable laws and regulations, it is mandatory to do so. The new state administrative court has the authority to examine and decide on state administrative disputes if available administrative measures have been taken.[23]

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[20] Darda Syahrizal, (2013) *Hukum Administrasi Negara & Tata Usaha Negara*, Medpress, Yogyakarta, p. 86.
[21] M Yahya harahap (2017) *Hukum Acara Perdata*, Sinar Grafika, Jakarta, p. 230
[22]A'an Efendi, (2012) *Hukum Lingkungan Gugatan Sengketa Lingkungan Di Peradilan Tata Usaha Negara*, Jember University Press, Jember, p.19
[23] Ibid, p.20

The regulation of administrative measures is a form of legal protection provided by agencies or agencies within the government itself, either through objection procedures or administrative appeals. The existence of administrative efforts here does not include a judicial means but a means of internal settlement, but the administrative efforts carried out can be said to be part of the administrative justice system.[24] It can be concluded that dispute resolution through the administrative justice agency is limited to the legal aspect of testing and the testing is carried out by an independent institution. In addition, decisions on the completion of administrative efforts can be re-examined in administrative courts. However, in recent years there have been decisions of institutions that carry out *quasi rechtpraak* functions as if their decisions cannot be re-examined in judicial institutions. As is the case with the decisions of DKPP and Bawaslu with the excuse that their decisions are final and binding.[25]

The existence of institutions that carry out these pseudo-judicial functions cannot legally replace and can be equated with the function of judicial power. The relationship between judicial power and quasi-judicial can be said to be in two different positions but the functions of the two are related. It must be admitted that the implementation of the settlement of administrative efforts through several quasi-judicial institutions looks like carrying out the functions of judicial power with their authority to conduct adjudication. But it is not a real judiciary that exercises judicial power. Therefore, these institutions are called *quasi-judicial* or *quasi-rechtspraak*.[26]

In the context of the development of modern administration now and in the rapid development of administrative law in the last decade, the classification or benchmark of government criteria based solely on activities in the executive, legislative, or judicial fields has become inadequate, due to the development of state organizations with independent state institutions. The auxiliary organ which is not subject to mainly executive and legislative powers has given birth to a new phenomenon in the field of functions carried out by the state.

In Indonesia, there are now many new institutions called state auxiliary organs or auxiliary institutions as supporting institutions. Among these institutions are sometimes referred to as self-regulating agencies, independent supervisory bodies, or institutions that carry out mixed functions of the mix function between regulatory, administrative, and sentencing functions which are usually separated but are carried out simultaneously by the new institutions. Therefore, Anna Erliyana stated that in the reformation era, many institutions were formed which seem to be worthy of scrutiny whether their position as a State Administration agency or not. [27]In adjudicating lawsuits.

According to Philipus M. Hadjon, the reason for the lawsuit is a matter of the validity (*rechtmatigheid*) of a KTUN. The legitimacy concerns authority, procedure and substance. These three things are measured by written regulations and/or AUPB. Thus, there are two reasons to sue, alternatively or cumulatively, namely: the

[24] Enrico Simanjuntak, (2018) *Hukum Acara Peradilan Tata Usaha Negara, Transformasi dan Refleksi*, Sinar Grafika,Jakarta, p. 203
[25] Ibid p. 211
[26] Ibid
[27] Ibid, p. 159

KTUN is contrary to the laws and regulations. The KTUN contradicts the AUPB (the formulation of Article 53 Paragraph 2 is illogical). [28]According to the explanation of Article 53 paragraph (2) of Act No. 9 of 2004, KTUN that are contrary to the laws and regulations can be classified into 2 (two) types, namely those that are procedurally/formally and contrary to the laws and regulations. material or substantive invitation.[29]

KTUN that is contrary to the provisions of the procedural/formal legislation is a KTUN that is flawed in its form (*vormgebreken*) and usually involves the preparation, occurrence, composition or announcement of the decision in question. A KTUN that contradicts the provisions of the legislation that is material/substantive is a flawed decision regarding the content *(inhoudsgebreken)*.[30]

Regarding the reason for filing a lawsuit at the State Administrative Court, the KTUN being sued is against the general principles of good governance. The explanation in Article 53 Paragraph (2) letter b confirms that what is meant by general principles of good governance includes the principles of legal certainty, orderly state administration, transparency, proportionality, professionalism, and accountability.[31] In this regard, Enrico Simanjuntak, as quoted by Yodi M. Hartono, said that the use of AAUPB by judges is what is already known in jurisprudence and doctrine. This is intended so that judges use a clear legal basis when stating that a TUN decision is considered contrary to the AAUPB so that judges do not make up their own, even though the entrance to participate in forming the law has been provided based on the *ius curia novit* principle. Thus, the challenge faced especially by administrative judges is how to explore and find AAUPB abstractions based on contextual values of wisdom, virtue, and propriety based on values that live in the community and the concept of good governance.[32]

The main problem in each lawsuit against government administration decisions is the issue of the legality of weighed. Thus, the priority scale of testing parameters should be based on legislation. The issue of *redelijkheid* fit and proper legitimacy becomes the second issue after the issue of legality and at this level the relevant testing parameter is AAUPB. So that the TUN dispute is not just a matter of legitimacy assessment but also concerns the assessment of propriety. Therefore, GA Van Poelje said that the cancellation of a decision based on the AAUPB could be caused not by a juridical defect in the decision but because of the government's ethical values which he called the AAUPB that was violated.[33]

Thus, the reason for using a previous KTUN was based on Act No. 5 of 1986. After the amendments in Article 53 paragraph (2) of Act No. 9 of 2004 then explicitly acknowledged that one of the reasons for using a KTUN was because against the AUPB. So that these two reasons can be the basis for the judge's consideration to give a decision at the State Administrative Court.

[28]Philipus M. Hadjon, (1999) *Pengantar Hukum Adminstrasi Indonesia*, Gajah Mada University Press, Yogyakarta, p.330
[29]A'an Efendi, Op.Cit, p. 33
[30]Ibid
[31]A'an Efendi, Op.Cit, p. 33
[32]Enrico SImanjuntak, Op.Cit, p. 169
[33]Ibid, p. 170

4. Conclusion

Based on the research, the author can conclude that the issuance of Presidential Decree Number 34/P of 2020 is legally bound by DKPP Decision Number 317/2019, so the President only must carry out the DKPP Decision without being given the authority to correct and consider as regulated by law. The position of DKPP is not as an institution of judicial power but is a state organ of the election organiser. Therefore, based on the jurisdiction of the State Administrative Court, the DKPP Decision can be corrected in the State Administrative Court. Considerations put forward by the panel of judges, that Presidential Decree Number 34/P of 2020 which is based on DKPP Decision Number 317/2019 contains juridical defects, so it is contrary to laws and regulations and general principles of good governance. Because the basis of the President's decision is based on the DKPP Decision which is juridically flawed, the Presidential Decree of the Republic of Indonesia Number 34/P. The year 2020 concerning the Dismissal of Members of the General Election Commission for the 2017-2022 Term of Office dated 23 March 2020 is declared null and void and the DKPP Decision by itself becomes legally invalid.

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[9] Farah Syah Rezah (2018) *Hukum Acara Peradilan Tata Usaha Negara*, Publisher, Makassar
[10] Irwansyah, (2021) *Penelitan Hukum Pilihan Metode & Praktik Penulisan* Artikel, Mirra Buana Media, Yogyakarta.
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[15] Titik Triwulan Tutik, (2016) *Kontruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*, Kencana.

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