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Imposition of Administrative Sanctions on Government Officials Who Do Not Implement Decision of the State Administrative Court

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Abstract

This study aims to analyze and determine the nature of the imposition of administrative sanctions on government officials who do not implement the decisions of the State Administrative Court. As well as exploring and finding the concept of imposing administrative sanctions on government officials who do not carry out decisions of the State Administrative Court. This type of normative research examines document studies using various legal materials such as laws and regulations, legal theory, legal principles, legal systematics, research on legal synchronization, legal history, court decisions, and comparative analysis of law. The problem approaches used in this study are the statutory approach, the conceptual approach, the case approach, the philosophical approach, and the comparative approach. The results of this study obtained the following conclusions: (1). The nature of the imposition of administrative sanctions on government officials who do not implement the decisions of the State Administrative Court can be seen from 3 (three) aspects, namely the aspects of ontology, epistemology, and axiology. (2). The concept or model of imposing administrative sanctions on government officials who do not implement the decisions of the State Administrative Court in a futuristic manner and as a form of legal protection for the plaintiff, it is necessary to have a clear basis or legal basis for the State Administrative Court to include administrative sanctions in the decision. Whereas Furthermore, if the official concerned still does not want to carry out the court's decision, then he will be subject to administrative sanctions in the form of temporary dismissal for 5 (five) years without obtaining financial rights and office rights and publication in the mass media for 1 (one) month in a row, except for government officials whose working period is less than five years, the temporary dismissal is adjusted to the remaining active period.

Keywords: *Nature; Administrative Impeachment; Government Officials; And Administrative Court Decisions*

Introduction

The State of Indonesia is based on the law as stated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (from now on, abbreviated as the 1945 Constitution of the Republic of Indonesia). The third amendment explains that "Indonesia is a state based on law." This means that all aspects of national and state life must be guided by the laws in force in Indonesia. In connection with the fact that the State of Indonesia is a state based on law, one of the principles of the rule of law is the existence of guarantees for the exercise of power by an independent judiciary, free from any interference from extra-judicial authorities to administer justice to uphold order, justice, truth and legal certainty that is capable of protecting the community. Judicial power that is free from coercion, directives, or recommendations from extra-judicial parties, except in matters indicated by law (Chandranegara & Cahyawati, 2023).

The State Administrative Court (PTUN), one of the judicial bodies that exercise judicial power, is an independent power under the Supreme Court in the framework of administering justice to uphold law and justice. Law enforcement and justice are part of legal protection for the people for public legal actions by government officials who break the law. As a government official or official. The state administration has broad authority in government affairs (executive). This broad authority does not rule out the possibility of abuse of power or misuse causing harm to the community. Therefore, a juridical control institution is urgently needed for every decision and or action taken by the government or state administrators, in this case, the State Administrative Court (Suntana & Priatna, 2023).

The PTUN's juridical control function aims, in addition to providing legal protection for the public and government officials themselves, as well as a state administrative law enforcement agency that aspires to realize excellent and authoritative governance (good government governance). The basic concept underlying the birth of PTUN in Indonesia is the rule of law principle (Asmorojati, 2020).

The purpose of establishing the Administrative Court is intended as a means of legal protection (rechtsbescherming) for the people against the decisions and actions of the Government so that in carrying out government duties by statutory regulations and in harmony with the General Principles of Good Governance / Algemene Beginselen Van Behoorlijk Bestuur (AUPB). In the framework of bureaucratic reform in Indonesia and line with demands for respect and enforcement of human rights, it is highly expected that the role of the Government, in this case having the political will, in the future is to transform (ius constituent) the actions or government decisions in implementing government administration in addition to being based on the principle of legality, the General Principles of Good Governance (Algemene Beginselen Van Behoorlijk Bestuur) must also be found on the code of protection of human rights (Indiahono, 2011).

The goals and expectations of the person (person), Agency, and Civil Law (rechtpersoon) which in Law Number 30 of 2014 concerning Government Administration is referred to as the term "Community Citizen." Individuals and Legal Entities (Citizens) can file lawsuits or requests against decisions/actions issued by Government Agencies and Officials through Administrative Courts, both in general State Administrative disputes and Special State Administrative disputes, to obtain a complete settlement of the cases they face. Comprehensive compensation referred to here are matters requested by the Plaintiff and Petitioner in the petite (demand) of the lawsuit and letter of application after the PTUN decision has obtained permanent legal force should be guaranteed to be enforceable not only on paper formally but can be fulfilled by the Defendant or Respondent concretely in public life (Laritmas et al., 2022).

Undeniably, the goals and expectations of the people of das sollen and das sein have created a gap that raises issues that require solutions related to the implementation of PTUN decisions, where PTUN

decisions that have legal force are not implemented voluntarily by state administrative bodies or officials. (TUN official) as the Defendant or Respondent who the Administrative Court has sentenced, if this happens, it will reduce the trust of justice seekers in the existence of the Administrative Court, both now and in the future (Retnaningsih et al., 2021).

The implementation of Administrative Court Decisions by Government Agencies and Officials has a close relationship with the authority of the court, so according to Paulus Effendi Lotulung; the power of court decisions lies in the sincere intention of the executed agency or official to respect the principles and principles of the rule of law and the existence of "self-respect" for the officials concerned to respect the contents of court decisions (Lotulung, 2003). The execution of PTUN decisions differs from the execution of civil judgments because PTUN is a court adjudicating administrative disputes, so it does not have authority in the physical (factual) field. Administrative Court executions are only done administratively (abstract), not physically, as in civil cases (Siahaan, 2004).

According to Supandi, the factor that makes PTUN decisions not obeyed is the weak execution system regulated in Law Number 5 of 1986 concerning the State Administrative Court, which relies more on the awareness of TUN officials or with hierarchical reprimands in a hierarchical manner (floating norm). The weakness of the execution system and other factors that impede the implementation of the execution are: The voluntary execution system based on the awareness of TUN officials plays a vital role in hindering the performance of the TUN Court's decision, the Court's Decision is not implemented due to several factors, including:

a. Low compliance and awareness official law.
b. There is an official interest.
c. There needs to be a better vision in using the authority of his position where the official acts or does not act not in the public interest but acts as if the public institution is considered his private property.

Regarding the level of administrative sanctions as stipulated in Article 4 of Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials, administrative sanctions consist of:

a. Light administrative sanction,
b. Moderate administrative sanction; and
c. Heavy administrative sanctions.

Whereas regarding the types of administrative sanctions that can be imposed on government officials can be seen in the provisions of Article 81 of Law Number 30 of 2014 concerning Government Administration Juncto Article 9 of Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials including:

1. Light administrative sanctions in the form of:

   a. Verbal reprimand
   b. Written warning, or
   c. Postponement of promotion, class, and position rights.

2. Administrative sanctions are in the form of:

   a. Payment of forced money and compensation,
   b. Temporary dismissal by obtaining office rights, or

c. Quick release without obtaining office rights.

3. Severe administrative sanctions in the form of:

a. Permanent termination by obtaining financial rights and other facilities.
b. Permanent termination without obtaining financial rights and other facilities.
c. Permanent termination by obtaining financial rights and other facilities and published in the mass media, or
d. Permanent termination without obtaining financial rights and other facilities and being published in the mass media.

4. Other sanctions by the provisions of the legislation.

Although in Law Number 51 of 2009 Concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts it has provided an understanding of the concept of administrative sanctions as part of the implementation of TUN court decisions, while based on Law Number 30 of 2014 concerning Administration The government places more emphasis on the level and type of administrative sanctions that can be imposed on government officials who do not implement the Decision of the State Administrative Court, that however it seems that the intended type of administrative sanctions has not been effective enough to be implemented, which is due to the fact that there is still an opportunity to carry out choice or option to determine the form of administrative sanction in the form of what can be imposed on government officials who do not implement the Decision of the State Administrative Court, then besides that in the Decision of the State Administrative Court against administrative sanctions it is not a principal punishment or a principal obligation that must be carried out by government officials so that in fact many government officials or State Administrative officials still do not want to implement the Decisions of the State Administrative Court which have obtained permanent legal force (inkracht van gewijsde), as an example in the case that occurred in the West Nusa Tenggara region in Mataram State Administrative Court for the possibility of dismissal of Tepal village officials, Batulanteh District, Sumbawa district in case Number: 152/G/2017/PTUN.MTR dated November 1, 2017, between Abdul Jana (Head of Government) et al.

As plaintiffs against the Head of Tepal Village as the defendant, then in the case of the dismissal of the Head of Mandak 1 Hamlet and the Head of Bagek Kerokong 2 Hamlet, February 19, 2020, in case of Number: 21/G/2020/Ptun. Mtr, August 11, 2020, between Abdurrahman (Mandak 1 Hamlet Head) as a plaintiff against the Semoyang Village Head as a defendant, then in the case of cancellation of ownership certificates No.01767 and No.01766/Wawonduru Village on behalf of Sri Rahmawati, in case Number: 10/G/2021/PTUN. Mtr, July 29, 2021, between Nurhayati as a plaintiff against the Head of the Dompu Regency Land Office, as well as in the case of cancellation of Property Rights certificates No.12 and No. 212/ Seriwe Village in case Number: 16/G/2021/PTUN.Mtr, dated October 14, 2021, between PT Honeymoon Properties as a plaintiff against the Head of the East Lombok District Land Office.

The importance of legal protection for the community is to protect government actions, which due to their nature, can lead to legal consequences for the society or individuals from various steps that the government may take; the essential thing about the function of the State Administrative Court as legal protection is government action which is embodied in the decisions he made. These actions were carried out unilaterally, meaning that the actions were unilateral because they did not depend on the will of whom the legal consequences were to be realized but were based on the government's own choice or position that acted. The government's actions unilaterally do not require approval or conformity of the will of the party to whom the action is directed and the government.

The law does not always carry out unilateral actions the government takes, but sometimes they violate individual rights or interests. This is where the position of the importance of legal protection for the community lies. According to Sjahran Basah, protection for citizens is given when the attitude of state administration causes harm to its citizens. In contrast, legal protection for administrative officials is carried out through good behavior in providing services to its citizens (Basah, 1992). The birth of the authority to protect the law, which is the authority of the Administrative Court, is inseparable from the idea that is based on the concept of respect for human rights that live in society, which gives birth to equal status for every citizen and executor of the state before the law to obtain legal protection.

Based on the description of the problem background above, the writer is interested in conducting research with the following dissertation title: "Imposition of Administrative Sanctions Against Government Officials Who Do Not Implement Administrative Court Decisions.

Results and Discussion

A. The Nature of Imposing Administrative Sanctions Against Government Officials Who Do Not Carry Out Administrative Court Decisions From the Aspects of Ontology, Epistemology, and Axiology

Before discussing carefully the nature of the imposition of administrative sanctions on government officials who do not carry out PTUN decisions from the ontology, epistemology, and axiology aspects to start the discussion mentioned above, it is better to know and understand in advance what is meant by sanctions according to experts as follows:

Soetandyo Wignjosoebroto explains the sanctions as follows: (Wignjosoebroto, 2013)

> *What are these "sanctions"? Sanctions translated from Dutch 'sanctions' from English 'sanctions' are all legal consequences that must be borne by the subject accused of committing a legal act or causing a legal event to occur. A sanction is some sorrow imposed on anyone declared not to comply with what has been stated as the applicable law. Furthermore, it has also explained the various types of sanctions. There are two kinds of sanctions known in legal studies. The first is a "restitutive sanction," a sanction intended to seek recovery, and the second is a "retributive sanction, namely a sanction intended to retaliate." Retributive sanctions are generally imposed on legal actors who deny their obligations to carry out an achievement or who are negligent in respecting the rights of others, causing material losses to other parties; meanwhile, disciplinary sanctions are generally imposed on violators of the prohibition who, because of their evil actions, will threaten the safety of the soul, body and property and dignity of fellow human beings.*

Philipus M. Hadjon stated that the nature of sanctions is "reparatory," meaning to restore to its original state. Philips M. Hadjon's view of sanctions is as follows:

> *Sanctions are an essential closing part of administrative law. In general, there is no point in including obligations or prohibitions for citizens in state administration laws and regulations when state administration cannot enforce the rules of conduct (if the intent is necessary). The explanation by the legal experts above explains the sanctions in general review only, whereas if it is switched or linked to administrative sanctions for government apparatus, various special sanctions are attached explicitly to the state civil apparatus (ASN) or government apparatus, namely administrative sanctions for government apparatus which are applied or imposed on a government official who violates the norms of law. The description of administrative sanctions for state civil servants or government apparatus shows burdensome legal action as a form of a*

pattern of guidance and awareness of the obligations and prohibitions given administratively to government officials or government officials who violate legal norms; of course, it is different if we compare with the nature of the sanctions given to the subject of a criminal case, administrative sanctions are more specific and "special."

Philipus M. Hadjon stated that the difference between administrative and criminal sanctions can be seen from the purpose of imposing the sanctions themselves; administrative sanctions are aimed at the offender's actions, while criminal sanctions are aimed at the violator by giving punishment in the form of sorrow. (M. Hadjon, 2002). Administrative sanctions are intended to stop the violation. Likewise, government apparatus must comply with obligations and prohibitions against applicable regulations so that it is possible for the effectiveness of administrative sanctions given as a means of fostering instrument to be by what is expected by the government and the law, which is specific and binding, as expressed by C.S.T. Kansil that: (Kansil, 1975)**.**

"The development of government apparatus is aimed at being able to carry out the general tasks of the government as well as to mobilize and expedite the implementation of development. For this reason, efforts to control and improve the apparatus, which includes both structure, work procedures, personnel, and work facilities and facilities, need to be carried out continuously so that the entire government apparatus, both at the central and regional levels, is truly an authoritative, strong, effective tool. , efficient and clean, full of loyalty and obedience to the state and government, and staffed by experts, capable of carrying out their duties in their respective fields and only devoting themselves to the interests of the state and the people".

Whereas further related to the nature of the imposition of administrative sanctions on government officials who do not implement the Administrative Court's decision can be seen from 3 (three) aspects, namely aspects of ontology, epistemology, and axiology. For more details, the three parts of ontology, epistemology, and axiology related to the nature of imposing administrative sanctions on government officials who do not implement the intended PTUN decision can be described as follows:

First, from the ontology aspect, the imposition of administrative sanctions on government officials who do not carry out the Administrative Court's decision is a tool of public law power that the government can use as a reaction to non-compliance with obligations contained in legal norms or the case of commitments contained in rulings. The State Administrative Court has permanent legal force, thus giving authority to the government to determine legal criteria for state administration and providing power to enforce these norms by imposing sanctions on those who violate these legal norms. Implementing laws and regulations will only be effective if it is accompanied by law enforcement (Nasution, 2020).

Law enforcement against a statutory regulation can take various forms, one of which is outlined in the provisions of sanctions, which can be administrative sanctions. However, juridically law enforcement against a statutory regulation is only sometimes followed by the provision of sanctions in the relevant statutory regulations. Sanctions may be stipulated in or referring to other laws and regulations or without being regulated, even if, in a law or regulation, it is determined that we must meet specific requirements to obtain something (rights). Still, if these conditions are not met, then the sanction is that we will not get something (requests) that we should get if these conditions are met. Likewise, administrative sanctions against government officials who do not implement PTUN decisions will not be imposed or imposed on the relevant government officials as long as the intended government officials comply with or carry out the contents or orders of PTUN court decisions that have permanent legal force. So thus, it is clear that from the ontology aspect related to administrative sanctions against government officials who do not carry out the Administrative Court's decision is a public legal power of the government that carries out government tasks based on existing authority to carry out its functions strictly

on the reaction of government officials or parties who do not comply with existing legal norms or those that do not implement the provisions stipulated in the Administrative Court decisions that have permanent legal force.

Second, from the epistemological aspect, related to the imposition of administrative sanctions on government officials who do not carry out PTUN decisions based on scientific developments in government administration law, the imposition of administrative sanctions on government officials who do not carry out PTUN decisions is an obligation imposed on violators of a norm violation law to improve good governance (good governance). In its development juridically, it has been known that the basis for legal provisions or sources relating to administrative sanctions against government officials who do not implement PTUN decisions is clearly stated in several conditions, namely in Law Number 51 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning Administrative Courts, in Article 116 paragraph 4, Jo. Law Number 30 of 2014 Concerning Government Administration, in Article 80 paragraph 2, Jo. Government Regulation Number 48 of 2016 Concerning Procedures for Imposing Administrative Sanctions on Government Officials, in Article 11, paragraph 2.

The inclusion of sanctions must also be adjusted to the substance regulated in the legislation. As a general description, in several laws and regulations, it is found that the imposition of sanctions, especially criminal sanctions, looks very coercive. Inappropriate sanctions will result in practical and valuable statutory regulations. One of the principles that must be fulfilled in forming laws and regulations is the principle of usability and efficiency. Every statutory regulation is made because it is needed and helpful in regulating the life of society, nation, and state. Another consequence is that the sanctions stipulated in these laws and regulations are tough to implement because they are outside the scope of their substance (Ayu Fatkhurochmah & Gunarto, 2018).

There are times when administrative sanctions in enforcing laws and regulations are a more appropriate and effective choice compared to criminal sanctions. If the substance of statutory regulations is within the scope of administrative law, then it is inappropriate to impose criminal sanctions. The inaccurate opinion states that for legislation to apply effectively, it is always accompanied by criminal sanctions. For substances related to administrative matters, administrative sanctions are the most effective.

Administrative sanctions can be applied through court or non-court channels, namely by executive officials. Administrative sanctions outlined in laws and regulations are mainly related to licensing issues and are carried out by administrative officials (agencies) authorized to issue said permits. Administrative sanctions imposed by executive officials are often associated with violations of the requirements of applicable legal norms.

Third, from the axiological aspect regarding the imposition of administrative sanctions on government officials who do not carry out PTUN decisions, it has been obtained that there is a benefit as a consequence of a norm formulated in the form of a prohibition, order (obligation) or obligation (obligation) which in general will experience difficulties in enforcing it. If sanctions do not accompany it, then it can be known the benefits or uses of imposing administrative sanctions on government officials who do not carry out PTUN decisions, namely as follows:

a) To enforce statutory provisions so that a person complies with statutory requirements. As previously described, a norm containing prohibitions, orders (obligations), or general duties will experience difficulties enforcing it if sanctions do not accompany it. Imposing sanctions will facilitate the enforcement of these norms, and in turn, we will see the effectiveness of these laws and regulations. In addition, including sanctions is also an attempt to make a person comply with the provisions of rules and regulations.

b) Give punishment to anyone who violates a norm of statutory regulations. A person who contravenes a model should be given a sentence according to the severity of the violation. The punishment becomes commensurate/appropriate if the person intentionally violates a norm. People who commit violations knowingly can be assumed that the person does have bad intentions/faith, so that person deserves to be punished/rewarded accordingly.
c) To deter someone from repeating a violation of the law. With the imposition of sanctions, it is hoped that people will not repeat the offense.
d) Prevent other parties from breaking the law. With the threat of sanctions, it is hoped that people will not violate the law. These are signs or warnings so that someone does not do something prohibited.

B. The Concept of Imposing Administrative Sanctions Against Government Officials Who Do Not Implement PTUN Decisions for the Future

Administrative sanctions enforce the law in implementing the current TUN Court decisions (after Law No. 51 of 2009). Other legal means include the imposition of forced money, announcements in the mass media, and submissions to the President and DPR. All of these means are intended to encourage the implementation of the decisions of the State Administrative Court.

Administrative sanctions are a legal concept in procedural law at the TUN Court. Understanding a picture is necessary to avoid bias in its implementation. Therefore, starting this description, it is also essential to understand the concept of administrative sanctions.

The definition of administrative sanctions according to a juridical review refers to Article 116 paragraph (4) of Law no. 5 of 1986, Jis Law no. 9 of 2004, and Law no. 51 of 2009 concerning Administrative Court. Administrative sanctions in the formulation of the article of the law state that if the defendant is unwilling to carry out a Court decision with permanent legal force, the official concerned is subject to forced measures in the form of forced payment of a sum of money and administrative sanctions.

Based on the provisions above, the meaning of administrative sanctions can be formulated as follows:

a. Whereas administrative sanctions are a form of coercive effort in implementing the TUN Court's decision (another form is forced money).
b. Whereas administrative sanctions are sanctions against the defendant (TUN Official) when he does not make the court's decision. This means that an administrative sanction is not a principal punishment but only a sanction due to the non-implementation of a court decision (bare punishment).
c. Whereas administrative sanctions enforce the law of decisions because they are applied when a TUN official does not implement a court decision.

Philipus M. Hadjon explains the meaning of administrative sanctions by comparing them to criminal sanctions. Judging from the objective, administrative sanctions are always aimed at the violation, while criminal sanctions are aimed at the violator by punishing sorrow (Philipus M. Hadjon, 2010). The purpose of applying administrative sanctions is to stop the infringement. By its nature, "reparatory" means to restore to its original state. In law enforcement, administrative sanctions are applied by state administration officials without having to go through judicial procedures, while criminal judges impose criminal sanctions through court proceedings.

The main obstacle that has not been able to carry out the imposition of administrative sanctions on government officials who are not willing to carry out PTUN decisions that have permanent legal force

as referred to in Article 116 paragraph 4 of Law N. 51 of 2009 is that Legislation has not been enacted as a rule for implementing the mandate of Article 116 paragraph 7 of the Law. TUN Court.

In line with the legal issues mentioned above, some give a pessimistic view of the implementation of administrative sanctions in enforcing the implementation of decisions, except by issuing implementing regulations. But on the other hand, it is recognized that legal theory will provide a framework of reference in implementing regulations (HR, 2006).

The need for legal theory (rechtwetenschap) in a narrow sense or (rechtstheorie) in legal research is to explore the further meaning of a rule of Law when legal dogmatics can no longer describe and provide explanations for positive Law. In such circumstances, legal theory (rechtstheorie) will answer and allow seeking solutions to applying Law by using legal concepts as a reference. Therefore legal theory is not only needed in making statutory regulations but also in the practice of applying the Law itself.

Administrative sanctions in the study of administrative law is an idea related to the concept of law. It has been explained that administrative sanctions, in terms of their contents, have two aspects, namely, aspects of supervision and aspects of sanctions. It also means that there are no value-free administrative sanctions for oversight and sanctions. If the elements of administrative sanctions are related to the implementation of administrative sanctions for officials who do not comply with the TUN court decision, then from the supervisory aspect, the sanctions are aimed at the TUN officials themselves to oversee their compliance with the implementation of their obligations specified in a court decision. Administrative sanctions are an aspect attached to the element of supervision so that when under control, it is found that TUN officials do not fulfill their obligations; they should automatically be followed by the imposition of administrative sanctions (Harjiyatni & Suswoto, 2017).

Regarding the legal review above, no law regulates administrative sanctions that can be imposed on superiors authorized to impose administrative sanctions who do not want to impose administrative sanctions on subordinate officials who do not carry out TUN court decisions, so this issue also causes a court decision. State Administration is in a floating position (floating execution), and many government officials or TUN officials still do not want to carry out the TUN Court Decisions. Such an absence of legal norms will allow judges to find the law (open system van het recht) .

The lack of clarity or the absence of legal norms must be dealt with by conducting Rechtsvinding, namely by carrying out interpretations (interpretation) and legal constructions or legal reasoning (redeneerweijzen) by exploring legal and justice values (Article 28 of the Law on Judicial Power). Legal interpretation certainly does not depart from a vacuum but from the soul of the law itself (spirit) (Philipus M. Hadjon, 2017).

The famous Rechtsvinding model today consists of interpretation (interpretation), legal refinement (rechtverfijning), analogical reasoning, and argumentum a contrario. In terms of performance, Ian McLeod's opinion is also interesting, which puts forward three principles or principles of Contextualism, namely: (Mertokusumo, 2008)

a. Principle of noscitur a Socis (something is known from its association). This means that a word must be interpreted in its sequence.
b. The Principle of Ejusdem Generis (meaning it is according to the genus). This means a word is limited in meaning, specifically in its group. For example, administrative law does not necessarily have the same meaning as civil or criminal law.
c. The Principle of Expressio Unius Exclusio means that if a concept is used for one thing, it does not apply to other things.

Based on the legal theory above, Article 116 paragraph (4) will be analyzed the authority to implement administrative sanctions referred to in that rule. The first analysis starts from the theory that administrative sanctions are a means of public law power used by the government as a reaction to non-compliance with obligations contained in government legal norms ("De publiek rechtelijke machtsmiddelen die de overheid kan aanweden als reactie op niet- naleving van verplichtingen die voortvloeien uit administratiefrechtelijke ormen"), (H. D. Van Wijk en Willem Konijnenbelt, 2006). The same thing was said by another expert, who said that administrative sanctions were applied by TUN officials without having to go through judicial procedures. (Philipus M. Hadjon, 2010) This theory gives the understanding that a judge can't impose administrative sanctions on a TUN official even if he is later proven not to have carried out the court's decision because the issuance of administrative sanctions is solely a tool of government power. This principle is also in line with the notion that judges may not sit on the chair of a TUN official, or, in other terms, judges may not stand on the shoes of a TUN official (judges can not stand on the administrative's shoes). (Marpaung, 2010) Based on this principle it must, a limitation is drawn that judges may not carry out executive actions (administrative acts) to issue decisions (like TUN decisions) or dictate officials to carry out administrative, legal activities.

If the limits of the judge's authority above are compared with the judge's power to give orders/obligations to the defendant as stipulated in Article 97 (9) b and c, namely to order the defendant (TUN official) to cancel the decision, issue a new decision, of course, the limitations, thus it is not included in the context of Article 97 (9) b and c. The reasons are: (Marpaung, 2010).

a. First, legally, this authority has been given to judges according to the law (Article 97 (9) b and c of the Administrative Court Law).
b. Second, this authority is not used to carry out governmental acts (administrative acts) but gives the Tun official concerned freedom to do so by organizational law norms.
c. The third is a practical and universal reason that the judge's authority has been used repeatedly in judicial practice in various countries that practice administrative justice.

When it is carefully examined that there is the legality of the judge's authority to order the defendant or to give an obligation (for example, issuing a decision) as described above, it is clear that by analogical reasoning, it is very reasonable in law to consider that the judge's authority to give the order to issue a decision can be used as a reference or basis for the judge to order TUN officials to order the competent TUN officials to issue decisions regarding the imposition of administrative sanctions for officials who do not carry out court decisions.

Related to the legal issue regarding "the authority of the judge to issue administrative sanctions," which is then compared with the authority of the judge to order the defendant to issue a new decision as stipulated in Article 97 paragraph (9), letters b and c, have the same essence.

First, from the point of view of the judge's authority to give obligations to the defendant, they both carry out orders to take government action, namely to issue a new TUN decision. Where in the context of Article 97 paragraph (9), letter b and letter c of the Administrative Court Law is to issue a decision (maybe the TUN decision ordered is an entirely new decision, or perhaps it just makes changes or improvements to the old decision) While in the context Article, 116 paragraph (4) orders TUN officials to issue decisions regarding the imposition of administrative sanctions for the defendant who does not carry out the decision.

Second, in terms of the substance of the order, the essence of the judge's order to issue the imposition of administrative sanctions (at a later date when the defendant does not comply with the court's decision) is also the same as the judge's order to issue a TUN decision, that is, both provide an obligation for TUN officials to carry out a government action.

Third, the legal principles used to issue orders to TUN officials issue new TUN decisions (Article 97 (9b and c) depart from the same legal principles as judges ordering TUN officials to impose administrative sanctions on TUN officials (Article 116 (4)) which both rely on the judicial control function of TUN officials.

Fourth, the target of imposing administrative sanctions by ordering the issuance of TUN decisions to TUN officials is the same as the duty of law enforcement carried out by the TUN court to provide legal protection for plaintiffs for government actions.

The legal analysis above is a contextualism interpretation that analyzes the similarity of judges' authority, the similarity of objectives, and the similarity of burdens/obligations to TUN officials to carry out an administrative action. These similarities indicate that the issue of the authority of judges to give orders to TUN officials to issue administrative sanctions (Article 116 paragraph (4) with the case of the authority of judges to provide the obligation to issue TUN decisions (Article 97 paragraph (9) letters b and c) are in a group of legal regimes and the same issues. Therefore by way of interpretation based on the principle of noscitur a Sociis, the authority of the judge to order TUN officials to issue decisions referred to in Article 97 paragraph (9) letters b and letters c) Administrative Court Law can be used as the basis for the judge's authority to order TUN officials who have the authority to determine the imposition of administrative sanctions on the defendant. The use of the principle of noscitur a cost departs from analogical reasoning (argumentum analogical), namely by using the norms of the authority of judges in Article 97 paragraph (9) a and b against the imposition of sanctions specified in Article 116 paragraph (4) of the Administrative Court Law.

With the enactment of Law Number 30 of 2014 concerning Government Administration, it has been explicitly determined that Government Officials must implement PTUN Decisions that have permanent legal force, with the threat of Moderate Administrative Sanctions for Government Officials who are not willing to implement PTUN Decisions that have permanent legal staff.

Following up on the UUAP, on October 31, 2016, the Government promulgated Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials. PP 48/2016 stipulates that every Government Official is obliged to "make decisions to implement Court Decisions no later than 5 (five) working days after the court decision is stipulated" and "implement valid Decisions and Actions and Decisions that have been declared invalid or canceled by the Court or the relevant official or the relevant superior," which if not implemented will be subject to moderate administrative sanctions in the form of payment of forced money and compensation, or temporary dismissal by obtaining office rights, or quick dismissal without getting rights position (Article 7 letter d and letter f junction Article 9 paragraph (2) PP 48/2016). Furthermore, PP 48/2016 also regulates Officials authorized to impose Administrative Sanctions up to the procedure for imposing Administrative Sanctions.

The existence of regulatory norms for implementing Administrative Court decisions with permanent legal force in PP Number 48 of 2016 should be grateful. However, the Considering Consideration of PP 48/2016 does not refer to the TUN Judicial Law as mandated by Article 116 paragraph (7) of the TUN Judicial Law, and the body of PP 48/2016 also does not mention the authority and procedure for Execution by the Chair of the Administrative Court. Up to this point, if PP 48/2016 is to be enforced/transplanted into the Execution procedure by the Head of the Administrative Court, there are at least two things that must be emphasized, namely: (Mulyono, Sudarsono, 2018)

First, the Procedure for Imposing Administrative Sanctions, as stipulated in Chapter IV PP 48/2016, still needs to define the procedure for imposing Administrative Sanctions by the Head of the PTUN if a Government Official does not implement a PTUN Decision with permanent legal force. There

is no regulation regarding the procedure for the Chair of the State Administrative Court to carry out the Execution, starting from the following issues: (1) whether the Chairperson of the State Administrative Court has the authority to determine one form of Moderate Administrative Sanctions that the Authorized Officer must impose for Government Officials who do not carry out a Decision that has permanent legal force, or is the determination of the Administrative Sanctions of the Moderate type handed over to the Authorized Officer?: (2) what is the procedural law for imposing the Administrative Sanctions of the Moderate type by the Chairperson of the Administrative Court?; up to (3) what is the control mechanism by the Chief Justice over the implementation of the Execution.

Second, PP 48/2016 links the imposition of Administrative Sanctions with Requests for Assessment of Elements of Abuse of Authority (Article 21 UUAP junto Perma Number 4 of 2015), as Article 35 PP 48/2016 as follows: "in the case of Government Agencies and Officials objecting to decisions officials authorized to impose Administrative Sanctions, Agencies and Government Officials may apply to the State Administrative Court to assess whether or not there is an element of abuse of Authority in Decisions and Actions." From this provision, the problem is whether a Decision on the imposition of Moderate Administrative Sanctions on Government Officials who do not implement a Decision that has permanent legal force can be submitted as an Application for Assessment of Elements of Abuse of Authority to the Administrative Court as referred to in Perma Number 4 of 2015.

Based on the above matters, a concept or model of imposing administrative sanctions is needed on government officials who do not implement PTUN decisions in a futuristic or more effective future to guarantee legal protection for the plaintiff, namely as follows:

1. There is a clear basis or legal basis for the State Administrative Court to include administrative sanctions in the verdict.
2. Amend the provisions in Article 80 paragraph (2) of Law Number 30 of 2014 concerning Government Administration, specifically for the phrase that says, "Government officials who violate the provisions referred to in Article 72 paragraph (1) are subject to moderate administrative sanctions," so that it reads "Government officials who violate the provisions referred to in Article 72 paragraph 1 are subject to administrative sanctions in the form of temporary dismissal for 5 (five) years without obtaining financial rights and office rights and being published in the local printed mass media consecutively for 1 (one) month. Whereas if a government official whose working period is less than five years violates the provisions referred to in Article 72 paragraph 1, he is subject to administrative sanctions in the form of temporary dismissal adjusted to the remaining working period, without obtaining financial rights and office rights and published in the local print media consecutively for 1 (one) month. That the intended change is stated in a separate paragraph.
3. The PTUN institution is not only a supervisor in implementing PTUN decisions that have permanent legal force (in kracht van gewijsde) but plays an active role according to the Dominis Litis principle, namely as the executor of PTUN decisions.
4. Amend the provisions of Article 116 paragraphs 4, 5, and 6 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court, namely as follows:

    a. Amendment to paragraph 4 so that it reads: If the defendant is not willing to carry out a court decision that has permanent legal force, the official concerned is subject to administrative sanctions in the form of temporary dismissal for 5 (five) years without obtaining financial rights and office rights and being published in the local printed mass media consecutively for 1 (one) month. Whereas if a government official whose working period is less than five years is not willing to carry out a court decision that has permanent legal force, then the official concerned is subject to administrative sanctions in the form of temporary dismissal adjusted

to the remaining working period, without obtaining financial rights and office rights and published in the local print media for 1 (one) month consecutively.

b. Amendment to paragraph 5 so that it reads as long as a government official or the defendant has not implemented a court decision that has permanent legal force within the specified period, the plaintiff can submit or follow up on a request for execution that has been previously submitted to the TUN Court, which is then based on the TUN Court. The demand for execution submitted by the plaintiff to carry out the PTUN Decision by force (fixed execution) to come to the domicile of the government official or the defendant to execute by the Court's decision and at the same time prepare the minutes of the execution including the signing of documents and or letters relating to obligations the defendant to execute according to the order in the Court's decision. What is the government official or the defendant in question is not willing to sign the documents relating to the TUN court decision or the government official/defendant is not at the place where the execution is being carried out, then the execution of the TUN Court decision remains Carried out by law without the presence of the defendant, and the minutes of the execution carried out without the presence of the defendant can be accepted and used as a legal basis by the plaintiff to take all legal actions according to the needs and interests of the plaintiff in the intended government agency.

c. Amendment of paragraph 6 so that it reads against the implementation of the Administrative Court decisions that have been implemented by the Administrative Court as referred to in paragraph 5 above, the Chief Justice submits a notification to the President as the highest government power holder and to the people's representative institutions as a form of oversight function.

Conclusion

The nature of the imposition of administrative sanctions on government officials who do not implement the Administrative Court's decision can be seen from 3 (three) aspects, namely aspects of ontology, epistemology, and axiology. Whereas the ontology aspect is a tool of power that is public law in nature which the government can use as a reaction to non-compliance with obligations contained in legal norms, then from the epistemological aspect with the development of science, it is an obligation imposed on violators to improve good governance (good governance). Government), and from the axiological aspect, namely to enforce the provisions of laws and regulations so that a person complies with statutory requirements, provide punishment for anyone who violates a norm of statutory rules, deter someone from committing a repeat violation of the law and prevent other parties to commit a breach of the law.

The concept or model of imposing administrative sanctions on government officials who do not implement PTUN decisions in a futuristic manner or for the future and as a form of legal protection for the plaintiff, that there is a need for a clear legal basis or basis for the State Administrative Court to include administrative sanctions in the verdict. Whereas Furthermore, if the official in question still does not want to carry out a court decision that has permanent legal force within a predetermined period, then he will be subject to administrative sanctions in the form of temporary dismissal for 5 (five) years without obtaining financial rights and office rights and published in the local print media consecutively for 1 (one) month. Except for government officials with less than five years of service, administrative sanctions in the form of temporary dismissal are adjusted to the remaining working period without obtaining financial rights and office rights and published in the local printed mass media for 1 (one) consecutively) month. Whereas Furthermore, as long as the government official or the defendant has not implemented the Court's decision which has permanent legal force within the specified period, the plaintiff can submit or follow up on the request for the implementation of the execution that was previously submitted to the

TUN Court, which is then the TUN Court based on the demand for the performance of the execution and proposed by the plaintiff to implement the Administrative Court Decision by the execution process of the Administrative Court decision as described in the sub-material Concept of Imposing Administrative Sanctions Against Government Officials Who Do Not Implement the Administrative Court Decision for the future as described above.

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