



DEVELOPMENT OF REGULATIONS ON FACTUAL ACTIONS POST-LAW ON GOVERNMENT ADMINISTRATION: 2024 ELECTION PROCESS DISPUTE STUDY IN CASU PRIMA POLITICAL PARTY

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Abstract

Factual actions in state administrative law have experienced developments after the issue of government administration law. This factual action is active in nature and is always preceded by a written decision from state administrative officials (TUN). However, in practice, factual actions involving written decisions are still subject to district courts accepting claims for unlawful acts (PMH) such as official decisions of state administrative officials (TUN) which are naturally the public law. This can be seen in the Jakarta District Court Decision Number: 757/Pdt.G/2022/PN which has punished the General Election Commission of the Republic of Indonesia (KPU RI) to postpone the General Election (Pemilu) and pay compensation. The aim of the research is to analyze the problems of the authority of written factual actions and to reformulate fair laws in the PTUN judicial system as well as the amount of awarded compensation procedures. Meanwhile, this research uses normative legal methods with statutory, conceptual and case approaches. The data collection method is by means of secondary data. The results of this research show that in the development of factual actions in state administrative law there has been an expansion of meaning to include written decisions, so that if there is a dispute over the election process between participants and the organizers of the General Election (Pemilu) then dispute resolution becomes the realm of absolute competence of the State Administrative Court (PTUN) after taking legal adjudication efforts at the Election Supervisory Body (Bawaslu). For this reason, in the future, legal reformulation efforts are needed regarding the expansion of the meaning of written decisions to also include factual actions contained in Law Number 51 of 2009 concerning PTUN, and changes to Government Regulation Number 43 of 1991 in the nominal amount of compensation awarded in PTUN according to real conditions regarding factual actions that give rise to PMH by the government.

Keywords: TUN Decisions, Factual Actions, Election Process Disputes.

Abstrak

Tindakan faktual dalam hukum administrasi negara telah mengalami perkembangan pasca lahirnya undang-undang administrasi pemerintahan. Tindakan faktual ini bersifat aktif yang selalu didahului oleh keputusan tertulis pejabat tata usaha negara (TUN). Namun dalam praktiknya, tindakan faktual yang menyangkut keputusan tertulis masih saja pada pengadilan negeri menerima gugatan perbuatan melawan hukum (PMH) seperti keputusan pejabat (TUN) yang bersifat hukum publik. Hal ini nampak pada Putusan Pengadilan

Negeri Jakarta Nomor: 757/Pdt.G/2022/PN yang telah menghukum Komisi Pemilihan Umum Republik Indonesia (KPU RI) untuk menunda Pemilihan Umum (Pemilu) dan membayar ganti rugi. Tujuan penelitian adalah menganalisis problematika kewenangan tindakan faktual yang bersifat tertulis dan mereformulasi hukum yang adil dalam sistem peradilan PTUN serta besaran pemberian tata cara ganti kerugian. Sedangkan, penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual dan kasus. Adapun metode pengumpulan data dengan cara data sekunder. Hasil penelitian ini menunjukkan bahwa perkembangan tindakan faktual dalam hukum administrasi negara telah terjadi perluasan pemaknaan yang mencakup juga keputusan tertulis, sehingga apabila terjadi sengketa proses Pemilu antar peserta dengan penyelenggara Pemilihan Umum (Pemilu) maka penyelesaian sengketa menjadi ranah kewenangan kompetensi absolut oleh Peradilan Tata Usaha Negara (PTUN) setelah ditempuh upaya hukum adjudikasi di Badan Pengawas Pemilu (Bawaslu). Untuk itu, ke depan diperlukan upaya reformulasi hukum mengenai terjadi perluasan pemaknaan keputusan tertulis juga termasuk tindakan faktual yang berada dalam Undang-Undang Nomor 51 Tahun 2009 tentang PTUN, dan perubahan Peraturan Pemerintah Nomor 43 Tahun 1991 dalam nominal pemberian ganti rugi di PTUN sesuai keadaan nyata atas adanya tindakan faktual yang menimbulkan PMH oleh pemerintah.

Kata Kunci: Keputusan TUN, Tindakan Faktual, Sengketa Proses Pemilu.

INTRODUCTION

Indonesia is a country of law which emphasizes that every resolution of legal issues must be based on the jurisdiction of the adjudicating court. This is as the constitution based on Article 24 paragraph (1) and Law Number 48 of 2009 concerning judicial power confirms that judicial power is exercised by the Supreme Court (MA) and its subordinate judicial bodies as well as the constitutional court, namely the Constitutional Court (MK). The purpose of establishing a judicial institution is philosophically to prevent abuse, so that the judicial institution functions as a supervisor of the principles of the rule of law. Because, in formulating policies it is the state administration that issues (decisions) on government actions (Yanto, 2015: 7), It is hoped that they will not deviate from applicable laws (*wetmatigheid van bestuur*). In the practice, every state administration must be based on the principle of legality. More than that, the concept of administrative law in a modern legal state is that administrative officials must play a role not only as night watchmen (*nachtwakersstaat*), but also actively shifting to create people's welfare according to the concept of a welfare state.

One of the characteristics of the rule of law is the existence of administrative justice. In this context, the State Administrative Court (PTUN) is one of the judicial powers under the Supreme Court. The PTUN institution, in practice in the field or sociologically, has a very existing

position, especially in law enforcement involving violations of the actions of state administration officials against citizens. This emphasizes the pattern that civil society, who in fact has no position, will fight against a state administration official. Apart from that, the State has created a protecting legal in the form of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN. The existence of a PTUN is expected to be able to provide justice, certainty and benefits to every citizen. However, on the other hand, an interesting problem concerns factual actions that are preceded by a written decision (*beschikking*) which causes harm to citizens. Normatively, there has been a very fundamental shift after Law Number 30 of 2014 concerning Government Administration, hereinafter referred to as Government Administration Law (AP Law). This is explicitly stated in Article 87 letter a, which has the effect of applying absolute competence in the PTUN to factual actions which are also interpreted as written decisions.

This shift occurred by expanding the meaning of PTUN's absolute competence in accordance with the AP Law, but Philipus M. Hadjon criticized "Article 87 letter a of the AP Law, because this provision expands the concept of TUN decisions, as in Article 1 point 9 of the PTUN Law which leaves a question that the written determination also includes factual actions, so the question arises as to whether this does not give rise to confusion or contradiction in terms (*Contradiction in termino*). Does this provision make the PTUN's competence absolute based on Article 1 number 10 expanded? If so, then the provisions of Article 1 number 10 will be changed to those in the PTUN Law (Hadjon, 2015: 52). However, when there is a conflict between two equally rank laws, the principle of *lex posterior derogate legi priori* applies, which means the new regulation overrides the old regulation.

Based on the principles above, theoretically it is to prevent legal uncertainty considering that the AP Law is different from the PTUN Law but the two laws are mutually compatible. It's like the enactment of the AP Law as material law and the PTUN Law as formal law. This can be seen in the explanation in the AP Law which states that in order to guarantee legal protection for citizens which is protected by the constitution and concreted in the form of a law that has been made by the legislative institution, it is therefore possible for the wider community to file lawsuits and objections/appeals against actions/decisions. Government officials. The AP Law is the material law of the PTUN system, which if there is a lack of harmony and validity in other provisions at the practical level, then the material law needs to be enforced.

In line with this, Article 87 letter a of the AP Law has expanded the absolute competence of the PTUN, this can be seen in a systematic interpretation of Article 85 of the AP Law which says "*Submitting a lawsuit*

for a government administration dispute that has been registered with the general court but has not yet been examined, with the enactment of the law. This law was transferred and resolved by the court." The meaning of the phrase 'court' refers to Article 1 point 8 as state administrative court. Thus, Article 85 is interpreted as regarding all lawsuits submitted for government administration disputes that have been registered in the general court but have not yet been examined. With the enactment of the AP Law, these lawsuits will be resolved and decided by the PTUN. If it has been examined before the AP Law was issued, it will be resolved in the general court. Prior to the existence of the provisions of Article 85, lawsuits for unlawful acts (PMH) by the government (*Onrechtmatige Overheidsdaad*) were resolved by the district court, because the plaintiff would conflict with Article 1365 of the Civil Code against the defendant (Bimasakti, 2018:265). Based on the PMH argument where the government's actions have caused harm to someone so they are obliged to compensate for the loss. The characteristics of PHM are always dynamic from time to time, this is indicated by the existence of a lawsuit over the election process carried out by the Prima party because it did not qualify as a participant in the 2024 election based on the decision of the KPU RI. However, what was surprising was that the Prima party, after being rejected at the PTUN, sued the government regarding the PMH in the general court, namely the Jakarta District Court and was won by the Prima party, which stated that one of the rulings was to postpone the 2024 election and compensate losses of five hundred million rupiah against the KPU RI.

Based on a brief explanation of the above, this research analyzes the problems of the authority to adjudicate in factual actions which are interpreted as written decisions resulting from unlawful acts in election process disputes?, as well as how to reformulate fair laws regarding written factual actions regarding compensation against unlawful acts in cases of election process disputes at the PTUN?

RESEARCH METHODOLOGY

This research is juridical-normative research, which was carried out to examine library materials or secondary data obtained indirectly, both literature and regulations related to the problem under study. (Soekanto, 2006:13-14). This research uses a conceptual approach, a statutory approach, and a case approach (Marzuki, 2014:93). Meanwhile, the analytical tool uses the theory of competence authority to adjudicate justice (absolute) from M. Yahya Harahap and the theory of legal objectives by Gustave Radbruch. The main data in this research is secondary data obtained through literature study. Apart from that, secondary data, one of which consists of primary legal materials, includes PTUN Decision Number: 468/G/SPPU/2022/PTUN.JKT, Jakarta District Court Decision Number:

757/Pdt.G/2022/PN, and Decision by PT DKI Jakarta Number: 230/PDT/2023/PT DKI. Thus, the data that has been obtained is analyzed using a descriptive qualitative perspective. Qualitative analysis is analysis carried out by understanding and assembling the data that has been obtained. Meanwhile, perspective research is to provide input on the problems being studied.

RESEARCH RESULTS AND DISCUSSION

Problems with the Authority for Factual Actions: Study of the Election Process Dispute *In Casu Prima* Political Parties

PTUN's authority in the field of government administration has been given by attribution to the PTUN Law, namely Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN. Normatively, the authority of the PTUN is confirmed in the General Provisions Article 1 number 1 which states "*The court is the State Administrative Court or the State Administrative High Court within the PTUN.* Meanwhile, Article 1 number 9 states "*A State Administrative Decision is a written decision issued by a State Administrative Agency or Official which contains state administrative legal actions based on applicable laws and regulations, which are concrete, individual and final, which give rise to legal consequences for a person or civil legal entity*". The court's authority to judge theoretically is commonly referred to as "Absolute Competence" authority or "absolute" jurisdiction, whereas any case that does not include within its area of authority is absolutely not authorized to judge. (Harahap, 2001:92).

The problem of factual actions in state administrative law still creates confusion about who will have the authority to adjudicate in determining jurisdiction, even though the AP Law in article 87 letter a has explained that there is an expanded meaning in the KTUN, there is still the practice of district courts accepting PMH lawsuits regarding factual actions in the form of written decisions which causes losses. For example, the prima party filed a lawsuit regarding a dispute over the election process between the participants and the election organizers, namely that this pattern was in accordance with the election legal framework carried out by the plaintiff against legal adjudication efforts at Bawaslu. In an effort to dispute the election process at the General Election Supervisory Body (Bawaslu), one of the decisions is to impose reparative sanctions. In a theoretical view, these sanctions are applied in response to a violation of a legal norm committed by the Indonesian KPU, it is hoped that the condition of the plaintiff will return to normal according to the legal situation (*legale situate*) (Ridwan, 2014: 301), because it violated PKPU norms Number 4 of 2022 concerning political party registration so they were given the opportunity to make improvements to administrative verification, but in the end they also did not meet the requirements as participants in the 2024 Election.

After the Bawaslu decision, the plaintiff also filed an appeal at the PTUN resulting in the Jakarta PTUN decision Number: 468/G/SPPU/2022/PTUN.JKT dated January 19, 2023. In its decision, it was stated that the plaintiff's lawsuit was rejected regarding the object of the dispute over the RI KPU's decision regarding political parties who are participating in the 2024 election where Prima party is not included because Prima party does not meet the requirements for administrative verification and factual verification required in the PKPU regarding political party registration. However, after the lawsuit was rejected by the PTUN, Prima party again sued the General Election Commission of the Republic of Indonesia (KPU RI) at the Jakarta District Court Number: 757/Pdt.G/2022/PN Jkt.Pst which resulted in the decision being won by Prima party based on the classification of actions against the law (*onrechtmatige overheidsdaad*) because Prima party suffered a loss in administrative verification and the defendant (KPU RI) had committed an unlawful act. In addition, the defendant is burdened with paying material compensation of Rp. 500,000,000.00 (five hundred million rupiah), but more than that, punishing the defendant not to carry out the remaining stages of the election from the start for approximately 2 (two) years 4 (months) 7 seven (days). This decision finally sparked public discussion because it was granted by the Central Jakarta District Court which granted the lawsuit of the Just and Prosperous People's party (Prima party) against the defendant General Election Commission (KPU) to postpone the 2024 election.

Furthermore, the Indonesian KPU made an appeal to the DKI Jakarta High Court Number: 230/PDT/2023/PT DKI with a decision to accept the appeal of the appellant/original defendant and cancel the decision of the Central Jakarta District Court Number: 757/Pdt.G/2022/PN Jkt.Pst dated March 2 2023 to which the appeal was requested. Apart from that, it states that the general court does not have the authority with absolute competence to try cases of unlawful acts. Therefore, cases of factual actions and PMH which are interpreted as state administration decisions and court decisions show that there are inconsistencies in the transition period from general court to PTUN so that absolute competence is still unclear in handling cases of state administrative actions in the form of real factual actions due to *onrechtmatig overheidsdaad*. After the establishment of the AP Law, it has brought developments in the regulation of decision-making by state administration officials. This is stated in Article 87 letter a of the Government Administration Law, which states that, "*State administrative decisions as referred to in the State Administrative Court Law must be interpreted as written decisions that also include factual actions.*" This means that the factual action has a broad meaning or is progressively or actively preceded in the form of a written decision which also includes factual action even

though there are also actions by state administration officials in their actions who do not issue decisions such as being passive.

The shift of authority from the general court to the PTUN has been explained but there are no clear parameters so there is still a gap if there is a state administration dispute at the PTUN but if it is lost it will become feedback that leads to the general court in the PMH context, thus giving rise to legal uncertainty at this stages of 2024 Election. This case should be in the realm of public law, namely the PTUN. In the context of election process dispute cases which begin with factual actions in written form, in carrying out their duties, state administrative officials act actively, namely issuing written decisions. In this study, we are not reviewing factual actions that do not issue written decisions or do nothing, such as not building a road because it is damaged and results in motorists falling, suffering injuries and causing harm to someone, but in this case, factual actions include the existence of a written decision by a state administration official thus causing Prima party not to qualify as a participant in the 2024 election.

Theoretically, government action (*bestuur handelingen*) can be divided into two, namely factual actions (*feitelijke handelingen*) and legal action (*rechtshandelingen*). In term of *feitelijke handelingen* which means factual action or concrete action (Safri Nugraha, et al., 2007: 85) where the factual action is characterized as one-sided (*eenzijdige*) because it is one-sided, this is also in line with the opinion expressed by Van Wij and Konijnenbelt (1984) as explained by Indroharo and Philis M. Hadjon (Indroharo, 2004: 145). However, to look at it from a juridical perspective, the authority is based on Supreme Court Regulation (Perma) Number 2 of 2019 concerning Guidelines for Resolving Disputes on Government Actions and the Authority to Adjudicate Unlawful Acts by Government Agencies and/or officials (*onrechtmatige overheidsdaad*), emphasized that Article 11 states "*In cases of unlawful acts by Government Agencies and/Officials which are being examined by the District Court, the District Court must declare that it has no authority*". On the other hand, in practice, civil lawsuits are still being filed regarding the KTUN in the District Court, such as the prime party suing the Indonesian KPU, even though the prime party has already lost at the PTUN. The PTUN is used as the basis for challenging the existence of *onrechtmatige overheidsdaad* to the District Court (Abrianto et al., 2020:11) in accordance with the elements of Article 1365 of the Civil Code. However, District Court judges must also distinguish whether it is private or public law, considering that in dispute cases the election process is public law, so based on this teaching the PTUN has the authority to judge factual actions in the form of written decisions accompanied by unlawful acts by officials of state administration.

In accordance with the implementing regulations above and orders by institutions at levels above it, namely the Supreme Court, the role

holders and institutions implementing sanctions, namely district court judges, should obey to reject it, as stated by Harun Maksum, stating that, in the PTUN and general courts, this still happens. The tangential points intersect so that it is difficult to determine which boundaries are regarding KTUN and which are not KTUN actions (Maksum, 2020: 10). Meanwhile, Amrizal J. Prang said that the government's actions that can be sued at the PTUN are concrete, individual and final in nature, but in general courts they are general-abstract, general-concrete and individual-abstract (Prang, 2013: 571). Thus, if we look at the electoral process dispute as per the nature of the meaning of Article 87 letter a, it is said that the written factual action can be used as a legal argument that in the case of Prima political party suing the Republic of Indonesia KPU in the district court, Prima political party had the wrong address so that the court decision PT DKI Jakarta stated that this country does not comply with the authority of absolute competence.

Fair Legal Reformulation in Compensation Lawsuits for Settlement of Factual Action Disputes at the PTUN

Reformulation comes from the word "formulation", which means arranging in the right form. In this case it is said "re" which means return, so it can be concluded that it is reformulating to create legal reform in accordance with the desired objectives. For this reason, a policy is needed by the legislature in determining and formulating something in statutory regulations so that it is called "formulative policy" (Harun, 2016:103). Furthermore, reformulation is the reformulation of a situation or whatever exists because it is far from ideal (Artina dan Erdiansyah, 2021:5). In principle, in the future, changes are needed regarding Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning PTUN and Government Regulation Number 43 of 1991 concerning procedures and compensation for PTUN, in order to provide justice when a lawsuit occurs at PTUN which corresponds to the plaintiff's real situation. Reflecting on the rule of law, it is closely related to due process of law which requires a fair and proper process before making decisions that can harm individuals. (Lim, 2010:5). Therefore, efforts to amend the norm content material in the PTUN Law regarding the General Provisions Chapter Article 1 number 9 and number 10 need to be added to strengthen the norm regarding factual actions which include written decisions. Meanwhile, in the implementing regulations, namely the PP, regarding the provision of compensation so that in the future it will be recalculated according to the plaintiff's loss.

If factual actions are tried by the PTUN, then there must be clear parameters in the PTUN decision which are closely related to Law Number 51 of 2009 concerning PTUN regarding Article 97 paragraph (8) which states "*If the lawsuit is granted, then in the court decision it can be determined that the*

obligation to be carried out by The top TUN body/official issues the KTUN. In the explanation of the obligations, this is in accordance with the plaintiff's demands. Meanwhile, paragraph (9) "This obligation is in the form of revoking the KTUN because it was canceled and issuing a new KTUN". Furthermore, paragraph (10) "This obligation is accompanied by the imposition of compensation. In simple terms, this norm is only applied to KTUN which is canceled and contrary to the law so that a new KTUN is needed to replace the judicial order of the existence of a test basis to assess the existence of factual actions and/or unlawful acts by authorities in the PTUN system which uses stone. legislative tests and general principles of good governance (Ridwan, 2022: 189-108).

TUN disputes in accordance with paragraph (10) above, can also be accompanied by or without a claim for compensation by the plaintiff, in practice it does not satisfy the sense of justice where compensation for compensation is not optimal according to the actual losses suffered by the plaintiff, considering that the claim for compensation is an additional penalty for the defendant to carry it out. Talking about justice, German philosopher Gustav Radbruch explained that there are legal objectives that must be achieved according to Radbruch, namely justice, expediency and certainty. (Santoso, 2021:329). If ranked on the priority scale taught by Radbruch, first is legal justice, second is legal benefit, and third is legal certainty. The implementation or enforcement of the law must be fair. If in enforcing the law we only pay attention to legal certainty, then other elements are sacrificed. Likewise, what is considered is only expediency, then legal certainty and justice are sacrificed and so on. Therefore, there must be a balanced compromise between these three elements. But in practice it is not always easy to do things proportionally (Mertokusumo, 2008:161).

On the other hand, regarding the aspect of charging compensation, it can be examined in Government Regulation Number 43 of 1991 concerning procedures and compensation at the PTUN for the implementation of the provisions of Article 97 paragraph (10) and Article 117 of the PTUN Law. Normatively, PP no. 43 of 1991 only states a maximum of Rp. 5,000,000 (five million rupiah). This is in accordance with Article 3 which states that "The amount of compensation that can be obtained by the plaintiff is at least Rp. 250,000 (two hundred and fifty thousand rupiah), and a maximum of IDR 5,000,000 (five million rupiah), taking into account the real circumstances." At first glance, this nominal impact is unfair because the losses suffered by the plaintiff due to factual actions against PMH by the plaintiff are greater. So the plaintiff wants to get more justice, so access to justice other than at the Administrative Court is used by Article 1365 of the Civil Code in the district court as PMH in civil law by the government or authorities. In this context, judges need to

differentiate between public law and civil disputes that arise in the realm of public law, namely factual (unilateral) actions made by state administration officials which result in losses, considering that government actions can also be two-sided *twee petten* which must be seen from its position *rechtspositie* can act in public and private legal acts. However, discussing election issues is certainly more appropriate, including public law *in casu* regarding disputes over the election process, verification of registration of political parties participating in the 2024 Election is not equated with civil law. Because, legal relations (*rechts betrekking*) not between one person and another, but concerns the general interest (Muhcsan, 1981: 1).

The Jakarta District Court's decision to postpone the 2024 General Election has become controversial for the public so that if the decision is still implemented, it will create legal uncertainty and violate the constitution of the 1945 Constitution of the Republic of Indonesia (UUD NRI) which stipulates that in accordance with Article 22 E paragraph (1) "*General elections are carried out directly, publicly, freely, secretly, honestly and fairly every five years.*" In the phrase "every five years" it means that it is carried out continuously at the end of every leadership in both the executive and legislative fields. Furthermore, the aim of holding elections is to elect the President and Vice President, DPR, DPD, and provincial DPRD and district/city DPRD. On the other hand, Election Law Number 7 of 2017 concerning Elections does not recognize the postponement of elections, only re-elections or follow-up elections. Bivitri Susanti, who is an expert in constitutional law, also spoke about the decision to postpone the election which was very problematic. This is because the Election Law does not have the authority of the district court to decide on this matter, so it becomes problematic even though it is actually a civil case between the Prima Party and the KPU (Ratnasari, 2023).

However, it has been clearly explained that the factual actions and unlawful acts are closely related to the claim for compensation in accordance with the Jakarta District Court decision Number: 757/Pdt.G/2022/PN Jkt.Pst which punished the Indonesian KPU to pay compensation for the lawsuit filed by prime party, but this was actually baseless, and misdirected, so that in the end the decision was annulled and the district court had no authority to resolve factual actions related to political party election process disputes. This can be called Article 1365 of the Civil Code as the "omnibus" article to challenge anything done by the government that is considered detrimental (Simanjuntak, 2021: 239-340). Furthermore, in the PMH lawsuit there are (1) elements of loss, (2) error, and (3) causality as a reference.

Apart from that, in the pattern of resolving election process disputes before they are submitted to the state administrative court, there needs to be adjudication efforts, namely process disputes in Bawaslu which are

called disputes between participants and organizers. This is in accordance with Law Number 7 of 2017 concerning Elections. Where, if during the registration of a political party it is declared that it does not qualify as an election participant, it is submitted for adjudication to Bawaslu, then after Bawaslu a dispute can be carried out at the PTUN. If you look at Prima party's case in Bawaslu Decision Number: 002/PS.REG/BAWASLU/X/2022, it has been granted and declared null and void KPU minutes Number 232/PL.01.1-BA/05/2022 concerning Recapitulation of Administrative Verification Results of Participating Political Parties Election on October 13 2022. Furthermore, Bawaslu gave the Prima party the opportunity 1 x 24 hours before the submission of documents for the Prima party's improvement requirements began. Therefore, Prima political parties have been given access to carry out improvements to the requirements through the political party information system (Sipol) but still in administrative verification and factual verification by the Indonesian KPU they stated that they did not meet the requirements. From the dispute stage of the process at Bawaslu and PTUN, the loss of factual action due to the decision of the Indonesian KPU which resulted in an unlawful act should just stop at the PTUN, and not go to the district court to handle the election process dispute. Because according to constitutional law expert, Feri Amsari, the Central Jakarta District Court judge's decision to grant the Prima party's civil lawsuit was "irrational and outside the jurisdiction" (Wahyuni, 2023). As a result, in an appeal carried out by the Indonesian KPU in the PT DKI Jakarta decision, the district court's decision was declared null and void.

If the plaintiff's reason for material loss is submitted, it is true that in the PTUN system where PP Number 43 of 1991 concerning procedures for compensation as explained above is still considered unfair, because the nominal amount is relatively small considering that in forming a political party and gathering members political party members more than what they spend. For this reason, legal action is needed in the future (*ius constituendum*) to reformulate the law regarding claims for compensation for written factual actions that give rise to unlawful acts in the PTUN according to the real conditions or real circumstances of the plaintiff's losses so that the PTUN becomes authoritative. However, this effort will also be a contradiction of whether what is being sued is just a decision or just compensation. This will have the consequence that the claim for compensation is not absolute (affirmative), meaning that a claim for compensation may or may not be included (Mahfud, 1999: 412). Based on the PTUN Law, Article 97 paragraph (10) in the decision can require the TUN Agency or Official who issued the KTUN to revoke or issue a new decision and make it mandatory if the lawsuit is accompanied by the imposition of compensation.

CONCLUSION

After the issue of Article 87 letter (a) of Law Number 30 of 2014 concerning Government Administration, there has been a broad meaning regarding written determinations which also includes factual actions so that if an unlawful act occurs (*onrechtmatig overheidsdaad*) *in casu* disputes over the election process between participants and the election organizers that have taken legal action through an adjudication hearing at Bawaslu, they can then submit an objection to the PTUN which has absolute adjudicative authority. Furthermore, in future legal reforms, efforts are needed to strengthen the legal reformulation of Law Number 51 of 2009 concerning PTUN and Government Regulation Number 43 of 1991 concerning procedures for granting compensation in PTUN that are meaningful so that they are in accordance with legal developments in society and the sense of justice, considering the relative nominal value is very little. This is normal for the plaintiff to use efforts to take a civil lawsuit in the district court against PMH so that he can recover the real losses as stated in the Jakarta District Court's decision against the defendant KPU RI to postpone the 2024 elections, and pay compensation of IDR 500 million for unlawful acts. However, the Indonesian KPU carried out legal appeals at the DKI Jakarta High Court which resulted in the decision regarding the Prima Political Party's lawsuit being annulled by PT DKI Jakarta because it did not comply with the absolute competence authority of the Jakarta District Court, so that the decision could not be implemented perfectly. Therefore, in the context of issuing a decision by a state administrative official, it is interpreted to include factual actions that give rise to a dispute in the election process regarding the registration of political parties participating in the 2024 General Election which remains in the hands of PTUN judges.

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