SRIWIJAYA Law Review

ISSN Print: 2541-5298
ISSN Online: 2541-6464

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The Competency of Administrative Court in Adjudicating State Financial Losses Report Dispute in Indonesia

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Article

Keywords:

Competency; State Administrative Court; Dispute; State Financial Losses Report.

Article History
Received: Jun 12, 2019;
Reviewed: Jan 5, 2020;
Accepted: Jan 29, 2020;
Published: Jan 31, 2020.

DOI:
10.28946/slrev.Vol4.Iss2.298.pp41-51

Abstract

The debate on the absolute competency of the State Administrative Court in Indonesia to set the dispute over the State Financial Losses Report is proved to have caused dissenting opinion. The judgments between one administrative court to other court in Indonesia cause main problem of achieving justice and legal certainty. This research examines the issue of absolute competence of the Administrative Court in adjudicating disputes on the State Financial Losses Report published by the Financial and Development Monitoring Agency (BPKP). This article uses normative legal research and implement the statute approach, conceptual approach, and case approach. These approaches are used to discern and analyse several related legal materials or documents scientifically. The aims and objectives of this research are to find a legal solution on how this classic issue has to be approached and solved. As a result, it is found through this article that the Administrative Court has absolute competence in deciding disputes on the Report on the Calculation of State Financial Losses issued by the Financial and Development Monitoring Agency, which is supported by several fundamental reasons.

INTRODUCTION

The debate over absolute competency, whether the Administrative Court (the Court) can test the validity of the State Financial Losses Report (LHPKKN) issued by the Financial and Development Supervisory Agency (BPKP) or not constitutes an interesting legal debate for academic study. It is due to the different attitudes of the state administrative court regarding this issue.

Although most Administrative Courts who adjudicate this dispute argue that the LHPKKN published by BPKP is not an absolute competence of the Court, but in practice, the Court has

the opposite attitude.[1] The legal basis used by the Panel of Judges argues that the dispute on LHPKKN validity is not an absolute competence of the Courts. Some Judges argue that the Court has no authority to adjudicate this dispute because the State Financial Losses Report issued by BPKP does not meet the criteria of the State Administration Decree (KTUN), which is still not final as referred to Article 1(3) of the Law on State Administrative Justice.[2] On the other hand, most judges have an opinion that Administrative Courts does not have the authority to examine LHPKKN because it is included in the "excluded State Administration Decree" as referred to Article 2(d) of the State Administrative Justice Law.[3] In practice, most administrative courts refuse to adjudicate LHPKN legal disputes issued by BPKP, but in fact, there are also administrative courts acting in the opposite direction. For example, in the case of PT. Indosat Mega Media (IM2 Case). Judges of the Jakarta Administrative Court in Decision Number 231/G/2012/PTUN-JKT states that the Administrative Court has the authority to adjudicate the validity of LHPKKN issued by BPKP and in its decision, the Assembly granted the plaintiff's claims:

> "(1) Stating that Decree Number: 231/G/2013/PTUN-Jkt on 7 February 2013 concerning the postponement of the implementation of the BPKP deputy chief letter of investigation Number: SR-1024/D6/ 01/2012 on 9 November 2012 regarding the audit report in the context of calculating the state financial loss for cases of alleged corruption in the use of a 2.1 GHZ / third-generation (3G) radio frequency network by PT Indosat Tbk. Moreover, PT Indosat Mega Media (IM2), along with an attachment in the form of a report on the calculation of state financial losses on October 31, 2012, made by BPKP, was still valid and maintained until the *a quo* decision was legally binding. (2) Granted the plaintiff's claim in part and declared invalid letter of the BPKP deputy chief letter of investigation... and (3) Ordered the first defendant to revoke the BPKP deputy chief letter of investigation..."[4]

The Decision of the Jakarta Administrative Court Number 123/G/20/2012/PTUN-Jkt on April 24, 2013, was later strengthened by the administrative appeal court through the Decision Number 167/B/2013/PT.TUN-Jkt on January 28, 2014. At the cassation level, The decision of the Jakarta Administrative Court and the appeal was strengthened by the Supreme Court through Decision Number 263/ K/TUN/2014 dated July 21, 2014.

The PTUN decision on the IM2 Case is exciting to be examined further. First, there are differences in the attitudes and practices of judges towards the State Financial Losses Report of BPKP in the administrative court. Second, there is a dualism of decisions between judges in the administrative court and judges in the Anti-Corruption Court. In the IM2 Case, although the panel of judges in the administrative court has stated that the BPKP Deputy Letter is invalid and must be revoked, the Anti-Corruption Court Judge states that Indar Atminto is guilty of violating Article 2 paragraph (1) in conjunction with Article 18 of Law No. 31 of 1999 in

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1 Sarina Gabryela Aprilyanti Butar Butar and Halim Dedy Perdana, "Penerapan Skeptisisme Profesional Auditor Internal Pemerintah Dalam Mendeteksi Kecurangan (Studi Kasus Pada Auditor Perwakilan BPKP Provinsi Jawa Tengah)," *Jurnal Ekonomi Dan Bisnis*, 2017, https://doi.org/10.24914/jeb.v20i1.1003.

2 Jan Michiel Otto, Suzan Stoter, and Julia Arnscheidt, "Penggunaan Teori Pembentukan Legislasi Dalam Rangka Perbaikan Kualitas Hukum Dan Proyek-Proyek Pembangunan," in *Kajian Sosio-Lagal*, ed. Adriaan W. Bedner et al. (Denpasar: Pustaka Larasan, 2012), 171.

3 Otto, Stoter, and Arnscheidt.

4 Fajar Laksono Soeroso, "Pembangkangan Terhadap Putusan Mahkamah Konstitusi Kajian Putusan Nomor 153/G/2011/PTUN-JKT," *Jurnal Yudisial* 6, no. 3 (2013): 227–49, https://doi.org/http://dx.doi.org/10.29123/jy.v6i3.100.

conjunction with Law No. 20 of 2001 concerning Eradication of Criminal Act of Corruption[5] in conjunction with Article 55 paragraph (1) of the Criminal Code. Indar Atminto is sentenced to four years, a fine of 200,000,000 Rupiahs, and a replacement of 1,358,343,346,674 (1.3 trillion Rupiahs) through Jakarta District Court Decision No. 01/Pid.Sus/TPK/2013/PN.JKT.PST dated July 1, 2013. The Appeal Court also increases the punishment of Indar Atminto to eight years. At the cassation level, the Supreme Court added a fine from 200 to 300 million rupiahs.

Third, there was a fundamental change in the competence of the administrative court with the enactment of Law Number 30 of 2014 concerning Government Administration (AP Law). Based on the AP Law, the absolute competence of the state administrative court is not only to adjudicate the KTUN, but also the Government Administrative Acts (*feitelike handelingen*).

This article attempts to scrutiny and analyze the "scope" of absolute competence of the State Administrative Court over the Report of issued by the BPKP by testing various judicial decision of the Administrative Court with the Law of the Republic of Indonesia Number 14/2014 on Government Administration and the theory of authority applied in the state administrative law. The objective of this article is to answer a question as to whether or not a State Administrative Court has an absolute competence to adjudicate and set a dispute over the Report of LHPKKN issued by the BPKP.

This article attempts to scrutiny and analyze the "scope" of absolute competence of the State Administrative Court over the Report of State Financial Lossesissued by the BPKP (the Financial and Development Monitoring Agency) by testing various judicial decision of the Administrative Court with the Law of the Republic of Indonesia Number 14/2014 on Government Administration and the theory of authority applied in the state administrative law. The objective of this article is to answer a question as to whether or not a State Administrative Court has an absolute competency to adjudicate and set a dispute over the Report of LHPKKN Report of State Financial Losses issued by the BPKP.

RESEARCH METHOD

The method applied in this article is to analyze and answer legal issues related to the absolute competence of the State Administrative Court to adjudicate the dispute on the Report on the Calculation of State Financial Losses (LHPKKN). With regards to the objective of the research method, the statute approach, the conceptual approach, and the case approach[6] are used to discern and analyze scientifically the legal materials or documents originated from sources like books, legal journals, legal research documents[7] and related official documents from the government as long as the competence of the PTUN and its Decisions is concerned. These legal materials and documents will be analyzed descriptively in a qualitative framework through stages of inventory, systematization, and interpretation of the legal materials. As normative legal research, this article uses secondary legal sources consisting of primary, secondary, and tertiary legal materials.

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5 Yasmirah Mandasari Saragih and Berlian Berlian, "The Enforcement of the 2009 Law Number 46 on Corruption Court: The Role of Special Corruption Court," *Sriwijaya Law Review* 2, no. 2 (2018): 193–202, https://doi.org/10.28946/slrev.vol2.iss2.69.pp193-202.

6 Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum* (Bandung: Mandar Maju, 2008).

7 Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *Fiat Justisia* 8, no. 1 (2015): 15–35, https://doi.org/10.25041/fiatjustisia.v8no1.283.

FINDING AND DISCUSSION

1. Concept of Competency Guaranteed Legal Protection

Because of the broad scope of the tasks of government administration, regulations are needed, which lead to the administration of government, which is citizen-friendly and can be the guideline for government agencies or officials in carrying out administrative tasks.[8] In its development, the provisions of the government administration are regulated in the Government Administration Act (AP Law). AP Law guarantees fundamental rights and provides protection to citizens and guarantees the implementation of the duties of the state as required by the rule of law under Article 27 paragraph (1), Article 28 D paragraph (3), Article 28 F, and Article 28 I paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Based on these provisions, citizens are not objects, but subjects who are actively involved in the administration of the government.[9]

In the framework of providing guarantees of protection to all members of the community, this law enables citizens to submit objections and appeals to decisions and/or actions to the relevant government bodies and/or officials. Citizens can also file lawsuits against decisions and/or actions of government agencies and/or officers to the administrative court.[10] Based on this background, the AP Law stipulates as stated in Article 3, namely ordered administration, creating legal certainty, preventing abuse of authority; guarantee the accountability of government bodies and officials; provide legal protection to citizens and officials; apply the general principles of good governance; and provide the best service to citizens.

2. Principles of Government Administration

Article 5 of the AP Law states that the administration of government consists of principles of legality, principles of protection of human rights, and general principles of good governance (AUPB). What the meaning of the principle of legality is defined in the elucidation of the article 5(a) that the administrators of government administration must prioritize the legal basis of a Decree and/or Action made by a Government Agency and/or Officer.[11] According to Hadjon et al., that every government action must be based on legal authority, the right procedures, and the right substance.[12] Consequences of the principle of legality is that there are no organs or state institutions that have authority unless explicitly attributed by law and administrative authority must not oppose the decisions of higher authority, and must not conflict with general principles and legal habits.[13]

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8 "The Law Number 30 of 2014 Concerning Government Administration" (2014).
9 The Law Number 30 of 2014 concerning Government Administration.
10 The Law Number 30 of 2014 concerning Government Administration.
11 Law Number 30 of 2014 concerning Government Administration.
12 J.B.J.M. Ten Berge Philipus M. Hardjon, Tatiek Sri Djatmiati, Addink, *Hukum Administrasi Dan Tindak Pidana Korupsi*, ed. Philipus M. Hadjon [et. al] - Primary Author, 1st ed. (Yogyakarta: Gadjah Mada University Press, 2011).
13 "The Bill of State Adninistration" (2014), http://perpustakaan.bappenas.go.id/lontar/opac/themes/bappenas4/templateDetail.jsp?id=121114&lokasi=lokal.

What is meant by "the principle of protection of human rights" is that administrators, agencies, or officials may not violate the fundamental rights of citizens as guaranteed in the 1945 Constitution[14] The citizens are included as legal entities and officials whose rights are violated[15] by the decisions or actions of officials. The General Principles of Good Governance (AUPB) are demonstrated through general legal practices in the administration of governance where this practice as in Article 10 of the AP Law, is concreted into eight principles, namely:[16] the principle of legal certainty, the principle of expediency, the principle of impartiality, the principle of rigor, the principle of non-misuse authority, the principle of openness, the principle of public interest, and the principle of excellent service. However, when there are new principles that arise based on court decisions that have permanent legal force, the principle must be applied.

In addition, the authority possessed by the State apparatus is obtained from attribution, delegation, and/or mandate. Attribution is the granting of authority to a government agency or official by the 1945 Constitution or Law. It is regulated in Article 1(22).[17] Then, delegation means delegating authority from a higher body or official to a lower-body or official, with the responsibility and accountability being fully transferred to the recipient of the delegation[18] The mandate is the delegation of authority from a higher body or official to a lower-body or official with responsibility and accountability remaining with the mandator.[19]

3. New Construction of KTUN Based on AP Law

The construction of the definition of the State Administrative Decree (KTUN) previously regulated in Article 1 number 3 of the law on state administrative justice,[20] then underwent significant changes after being passed, especially with regard to the expansion of the meaning of the KTUN.[21] Therefore KTUN must be interpreted as: a written stipulation that also includes factual actions, decisions of state administrative bodies and/or officials in the executive, legislative, judicial and other state administration based on statutory provisions and general principles of good governance; final in a broader sense; decisions that have the potential to cause legal consequences, and/or decisions that have an impact on citizens. Therefore, based on the expansion of the meaning of KTUN in Article 1 number 7 and Article 87 of the AP Law, the absolute competence of the administrative court also experienced an expansion of the authority to hear: written decisions issued by government bodies and/or officials, government administrative actions, and not must be concrete, individual, and final.

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[14]? The Elucidation of the Article 5(b) The Law Number 30 of 2014 concerning Government Administration.

[15] Ramiyanto Ramiyanto, "Presidential Permit to Summon Suspect of Corruption of the Member of the House of Representatives," *Sriwijaya Law Review* 2, no. 2 (2018): 203, https://doi.org/10.28946/slrev.vol2.iss2.128.pp203-214.

[16] The Law Number 30 of 2014 concerning Government Administration.

[17] Law Number 30 of 2014 concerning Government Administration.

[18] — the Law Number 30 of 2014 concerning Government Administration.

[19] Law Number 30 of 2014 concerning Government Administration.

[20] "The Law Number 51 of 2009 Concerning Second Amendment to Law Number 5 of 1986 Concerning Administrative Court" (2009).

[21] Anita Marlin Restu Prahastapa, Lapon Tukan Leonard, and Ayu Putriyanti, "Friksi Kewenangan PTUN Dalam Berlakunya Undang-Undang Nomor 30 Tahun 2014 Dan Undang-Undang Nomor 5 Tahun 1986 Berkaitan Dengan Objek Sengketa Tata Usaha Negara (TUN)," *Diponegoro Law Journal* 6, no. 2 (2017): 1–18.

4. The Absolute Competence of the Administrative Court to the State Financial Loss Report Based on Law Number 30 of 2014

In every claim filed by the plaintiff against the State Financial Losses Report at PTUN, the exception submitted by BPKP is that PTUN does not have the authority to adjudicate the State Financial Losses Report dispute because it is not individual, informative and not final, and is an exempted KTUN.

With regard to the non-individual KTUN, this problem was used as the basis for BPKP submission in its exception that PTUN did not have the authority to adjudicate LHPKKN Letter disputes. This is based on Article 1 (9) of the Administrative Court Law, which states that KTUN must be concrete, individual and final, and cause legal consequences for a person or a private legal entity. Individual means that the KTUN is not intended for the public but specific so that the BPKP asks the judge to reject that LHPKKN is an administrative decree, and PTUN who tried this case rejected the exception. The reasons for the rejection are as follows:

> "Concrete means the object decided or stipulated in the administrative court decision of Defendant I and Defendant II is not abstract, but tangible, certain or can be determined, namely the delivery and report of audit results in the context of calculating suspected criminal acts of corruption in the use of radiofrequency network 2,1 GHz/Generation Three (3G) by PT Indosat Tbk and PT Indosat Mega Media (IM2), with total state financial losses of Rp. 1,358,343,346,674.00; Individual means that the state administration decision is not intended for the public, but specific both address and the aims, namely to the young attorney general for specific criminal acts and the letter concerns the interests of certain parties as well, namely PT. Indosat Tbk. and PT Indosat Mega Media (IM2)."

Judge's consideration rejecting the BPKP exception which argues that LHPKKN is not individual, with the enactment of the AP Law, the BPKP exception can no longer be used, because the meaning of the individual has been expanded. If previously, the individual was interpreted as "... not intended for the public, but specifically both the address and the intended destination," based on the provisions of Article 87 (f) of the individual AP Law, including "decisions for the community." This broadens the legal standing community or group of communities in filing a lawsuit at PTUN. According to Article 1 (15) of the AP Law, a community member is a person or civil legal entity related to decisions and/or actions. Therefore, the notion of KTUN based on Article 1 (7) of the AP Law has changed by removing the word "individual."

Furthermore, concerning the final concept, in this case, the judge has a different opinion. In the explanation of Article 1 (9) of the Administrative Court Act, the ultimate meaning is definitive and can have legal consequences. So that a decision that still requires approval from a superior or other agency means that it is still not final and, therefore, cannot result in the emergence of a right or obligation at a party. In the case of IM2, LHPKKN is not categorized as final because it still requires approval from the Attorney General's Office.[22] This opinion was supported by Erliyana, who stated that LHPKKN by BPKP was not included as KTUN because it was not final. This opinion is based on that in understanding the object of a state administrative suit, and it should not stop at Article 1 (3) but also need to look at other related

[22] Novrieza Rahmi, "Siapa Berwenang Menyatakan Kerugian Negara?," www.hukumonline.com, 2017, https://www.hukumonline.com/berita/baca/lt58ac1253a9228/siapa-berwenang-menyatakan-kerugian-negara-sema-pun-tak-mengikat/.

articles, such as Article 1(3), Article 3, and so on. He also analogous that when there is a cover letter in a research project where I use the data obtained from the penitentiary, in this case, the cover letter does not include the substance of the data.[23]

On the other hand, Philippus M. Hadjon stated that LHPKKN met the KTUN criteria, as referred to in the Administrative Court Act. He analogs that when state administration officials impose their will to issue a decree which is not authorized, then to find out whether the state administration decision has binding legal force or not, there are three possibilities: null and void, null, and voidable. Then also, the attachment of a letter is an inseparable part of the letter itself.[24]

In considering the two experts above, the panel of judges argued that LHPKKN could be categorized as a final state administrative decision. The reason for the judge, in this case, is seen in his decision.

> "The Deputy Head of the Financial and Development Supervisory Agency (BPKP) in the Field of Investigation who is assisted by the auditors (Defendant II) is a State Administration Officer, so that the administrative legal product as long as it meets the elements of Article 1(9) of the Law on Administrative Court, is state administrative decisions (*beschiking*). This is different from the results of audits conducted by non-governmental auditors who are not included in the principle of presumpsio justeae causa, so that the evidence of the results of non-government audits does not have binding power. Because the BPKP letter containing the Report on the Results of the Calculation of State Financial Losses is a State Administration Decree (beschiking) of course it is not merely informative, so that the KTUN can be sued in the Administrative Court if there are parties who are disadvantaged by the decision."[25]

There are three reasons why the author, in this case, agrees with the opinion of the Panel of Judges in IM2 Case. First, the explanation of Article 13) of the Administrative Court Law states that the decision is not final if it still requires approval from the supervisor or other agency. For example, the decision to appoint a civil servant requires approval from the National Civil Service Agency (BKN). If the regional head appoints a civil servant candidate, then the decision to appoint is only valid if the BKN has approved it. BKN approval is absolute and regulated in law. If there is no BKN approval, then the decision is not yet valid. Elucidation of Article 1(3) related to the exclusion of decisions according to Article 2 (c) that "is not included in the definition of KTUN according to this law is KTUN that still needs approval." Based on the description, there is no statutory regulation that regulates LHPKKN by BPKP is valid if it has been approved by other law enforcement officials who request such assistance. Thus, the argument that LHPKKN is not final does not meet this criterion.

Second, with regard to the BPKP argument, which states that LHPKKN is only informative because it only contains information on the results of the calculation of state financial losses so that LHPKKN is only optionally used. In practice, every LHPKKN by BPKP is always used (accepted) by law enforcement officials who request it. This is because the LHPKKN that has been submitted in writing contains the calculation of state losses, in the preparation of the

[23] "Verdict of Jakarta Administrative Court Number 231/G/2012/PTUN-JKT," https://putusan3.mahkamahagung.go.id/direktori.html.
[24] "Verdict of Jakarta Administrative Court Number 231/G/2012/PTUN-JKT."
[25] "Verdict of Jakarta Administrative Court Number 231/G/2012/PTUN-JKT."

LHPKKN, discuss it with the investigators,[26] and it is certain that LHPKKN is used as a basis for state losses by law enforcement officials.

Third, with the enactment of the AP Law, the ultimate criteria have been met. Under Article 87 (d) of the AP Law, "included in the notion of KTUN is a final decision in a broad sense." In the explanation of the article stated that "what is meant by the final in a broad sense is the decision taken by his superiors". Then the AP Law also adds new meaning to the criteria of "causing legal consequences" under Article 87 (e) that "included in the KTUN is a decision that has the potential to cause legal consequences."

In the process of law enforcement, often, the element of "against the law" and "abuse of authority" coupled with mentioning the amount of "state losses" must exist as a basis for accusing a government official of committing a corruption act. It is based on the perspective of criminal law without considering that when an official carries out his activities, he is subject to and governed by norms of administrative law. The element of "prejudice to state finances" was made as an initial allegation to indict an official without first mentioning the type of violation.[27]

According to Irvan Mawardi, if the meaning of "having a legal effect" based on Article 53 paragraph (2) of the law on state administrative justice by the Panel of Judges is constructed from the "fact of direct legal loss, based on the principle of causality and causing a real loss", then with the enactment of the Law AP, expand the legal standing of a person or a legal entity that will sue the case to PTUN. So when there is a KTUN that has the potential to be detrimental, even though the loss is not yet real and not direct, then the KTUN can already be sued at the PTUN.[28]

5. LHPKKN by BPKP is an Excluded KTUN

The third exception raised by BPKP was that PTUN did not have the authority to adjudicate the dispute because LHPKKN was included as an excluded KTUN. This is based on Article 2 (d) of the State administrative justice law. In the Indosat Case (Decision Number 231/G/202/PTUN-JKT) BPKP brought experts as one of the legal proofs as stipulated in Article 184 (1). Therefore, the attorney general's office as an investigator may request expert opinions or people who have special expertise when conducting an investigation. Opinions or statements conveyed by someone who has special expertise can be used to make light of a criminal case. BPKP, in this case, has the opinion that LHPKKN is not included in the KTUN definition as regulated in the Administrative Court Law because the LHPKKN is issued based on the provisions of the penal code, the criminal procedural code, and other criminal law regulations, so that the Jakarta Administrative Court does not have the authority to adjudicate the case.[29]

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[26] "Regulation of the Financial and Development Supervisory Agency of The Republic of Indonesia Number 17 Of 2017" (2017).

[27] Firna Novi Anggoro, "Pengujian Unsur Penyalahgunaan Wewenang Terhadap Keputusan Dan/Atau Tindakan Pejabat Pemerintahan Oleh PTUN," *Fiat Justisia* 10, no. 4 (2016): 647–70, https://doi.org/https://doi.org/10.25041/fiatjustisia.v10no4.803.

[28] Irvan Mawardi, "Konstruksi Baru Tentang Keputusan Tata Usaha Negara Yang Dapat Diuji Di PTUN," Mahkamah Agung RI, 2019.

[29] "Verdict of Jakarta Administrative Court Number 231/G/2012/PTUN-JKT."

With regard to BPKP's argument that the LHPKKN is an exempt KTUN based on Article 2 (d), the panel of judges in the IM2 case rejected the argument. As for the consideration, the Judge had the opinion that "the audit of the calculation of state financial losses on October 31, 2012 made by BPKP which later became an attachment to the Deputy Head of BPKP for Investigation was not conducted based on the Criminal Code, the Criminal Procedure Code or criminal regulations."[30]

In this case, the author agrees with these considerations. Moreover, as considered by the panel of judges that in the rule of law, there is no public legal action taken by public officials without control, both internal and external. It is in line with the philosophical considerations of the issuance of the AP Law, which states:

> "The use of state power over citizens is not without conditions. Citizens cannot be treated arbitrarily as objects. Decisions and/or actions for citizens must be under the provisions of the law and general principles of good governance. Supervision of the decision is a test of the treatment of the citizens who have been treated according to the law by taking into account the principles of legal protection, which can be effectively carried out by state institutions and the free and independent administrative court. Therefore, the systems and procedures for governing government and development must be regulated by law."[31]

The author agrees with the consideration of the Panel of Judges based on the AP Law in order to create legal certainty, prevent abuse of authority, and provide legal protection to citizens and government officials. It is following Article 21 of the AP Law, whereby the KTUN exclusion, as referred to in Article 2(d), is no longer valid. For this reason, it can be understood if the scope of the KTUN, according to Article 87(b) included in the KTUN, is the decree of the state administrators and/or official in the domain of the executive, legislative, judiciary, and other state officials.

It is possible to test the Suspect Determination Letter issued by law enforcers (especially by the Police and Prosecutors' Office in the Anti-Corruption Case), because: First, the concept of authority and abuse of authority in administrative law has exceptional characteristics. It is often not considered in the enforcement of criminal acts of corruption. Therefore, there is an assumption that in the corruption charge allegedly to officials at the central or regional level is not on target and disproportionate, so that the phrase "criminalization of position or policy" appears. There is an official who was charged with committing a criminal act of corruption because the official applied the discretion article. There are also several regional legislative council members who have been named as suspects in corruption because they have received a double honorarium based on valid and valid regional regulations that were not canceled by the central government. It is in line with Zulkifli Aboebakar, who expressed surprise why the prosecutors and/or the police often use audit reports by the Audit Board of Indonesia on regional financial audit reports as a product of general audits, as a basis for determining someone to be a suspect. In fact, the audit, which is still common, has never been investigated.[32]

Second, to realize the purpose of the AP Law, especially in the context of creating orderly government administration, creating legal certainty, preventing abuse of authority, and providing legal protection to citizens and government officials.

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[30] "Verdict of Jakarta Administrative Court Number 231/G/2012/PTUN-JKT."

[31] The Law Number 30 of 2014 concerning Government Administration.

[32] "Risalah Sidang Perkara Nomor 54-PUU-XII/2014: Acara Mendengarkan Keterangan DPR, BPK, Serta Ahli Pemohon, Mahkamah Konstitusi, Jakarta, 27 Oktober 2014." (Mahkamah Konstitusi, 2015).

CONCLUSION

Although there are different interpretations in the administrative court which have been stated in several decisions regarding the LHPKKN dispute, based on practice, theory, and studies on the AP Law, it can be concluded that PTUN has absolute competence in deciding LHPKKN disputes issued by BPKP and/or BPKP auditors. This is based on several reasons: first, the results report is in written form, namely LHPKKN. Second, issued by the BPKP and/or BPKP auditors as government bodies and/or officials in the context of carrying out executive functions. Third, issued based on applicable legislation that is not issued based on the provisions of the Criminal Code or the Criminal Procedure Code, or other criminal legislation. Fourth, LHPKKN is final in a broad sense, because since the LHPKKN is published, it has caused legal consequences and/or has potential legal consequences for a person and/or civil legal entity and/or community members, and LHPKKN is valid and binding generally, except there was a revocation or is declared invalid by the court (principle of *presumpsio justeae causa*).

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