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ABUSE OF AUTHORITY THAT CAUSES STATE FINANCIAL LOSS AND ABSOLUTE COMPETENCE TO JUDGE BY THE STATE ADMINISTRATIVE JURISDICTION

Kamarullah
Faculty of Law, Universitas Tanjungpura, Pontianak, West Kalimantan, Indonesia
ORCID:0009-0009-1723-8828
kamarullah1@hotmail.com

ABSTRACT

This study addresses the issue of "Abuse of authority leading to state financial losses and the absolute jurisdiction of the State Administrative Court in making judgments." The research employed a normative approach, also known as library research, with primary legal sources comprising relevant laws and regulations, secondary legal sources consisting of literature on State Administrative Law, State Administrative Court Procedures, and Criminal Law, and tertiary legal materials related to the research problem. The research findings revealed that Law Number 30 of 2014 concerning Government Administration has expanded the State Administrative Court's absolute jurisdiction. This jurisdiction is utilized to assess whether government officials' decisions or actions that result in state financial losses involve an abuse of authority. The examination focuses on the subjects of the application, which are government agencies or officials, and the objects of the application, namely the decisions and/or actions of government officials. This testing process is subject to certain limitations, such as occurring after APIP supervision results and before any criminal proceedings. The legal consequence of a State Administrative Court decision stating that government officials' decisions or actions involve an abuse of authority is that these cases may proceed to the criminal process, provided that malicious intent can be proven. Conversely, if the State Administrative Court's decision concludes that there is no element of abuse of authority in the decisions or actions of government officials, they cannot be further pursued in the criminal process since they do not meet the core offense criteria outlined in Article 3 of the Corruption Law.

Keywords: Abuse of authority; Absolute Competence; State Administrative Court; Legal Implications

INTRODUCTION

Since the enactment of Law Number 5 of 1986 regarding State Administrative Courts, the grounds for individuals or legal entities to challenge the nullity and/or invalidity of a State Administrative Decision have been governed by Article 53, paragraph (2) of this law. These grounds

are outlined as follows:

a. The State Administrative Decision being contested contradicts the enacted statutory regulations.
b. The State Administrative Agencies or Officers, at the time of issuing the decision mentioned in paragraph (1), misuse their authority for purposes other than its intended purpose.
c. The State Administrative Agency or Officer, at the time of either issuing or not issuing a decision as described in paragraph (1), after considering all the interests involved in the decision, should not proceed with making or not making the decision.

The elucidation of Article 53, paragraph (2), clarifies that the basis for cancellation in point b is often referred to as "abuse of authority," while the basis for cancellation in point (c) is often referred to as "a prohibition against acting arbitrarily." Consequently, since the establishment of the Administrative Court (PTUN), the principle of authority abuse has served as the legal foundation for judges (*toetsingrecht*) when assessing the legitimacy of a State Administrative Decision.

However, through the first amendment to Law Number 5 of 1986 with Law Number 9 of 2004 and the second amendment with Law Number 51 of 2009, the elements of authority abuse and prohibitions against arbitrary acts were no longer considered grounds for challenging a State Administrative Decision. In Law Number 9 of 2004, the reason for contesting a State Administrative Decision's nullity and/or invalidity shifted to instances where the decision contradicted applicable laws and regulations and/or violated the principles of Good Governance (AAUPB).

With the introduction of Law Number 30 of 2014 concerning Government Administration (UUAP), the elements of authority abuse in decisions and/or actions taken by government officials were designated as the exclusive jurisdiction of the State Administrative Court (PTUN) for evaluation. Article 21, paragraphs (1) and (2) of UUAP stipulate:

(1) The court holds the authority to accept, review, and decide whether government officials have engaged in authority abuse.
(2) Government agencies and/or officials may request the court to assess whether there is an element of abuse of authority in their decisions and/or actions.

UUAP includes provisions regarding the prohibition of authority abuse in Article 17, such as paragraph (1) prohibiting Government Agencies and/or Officials from abusing their Authority. Paragraph (2) further specifies that the prohibitions on authority abuse mentioned in paragraph (1) encompass:

a. Prohibitions on exceeding their Authority.
b. Prohibitions on mixing their Authority.
c. Prohibitions on acting arbitrarily.

Nonetheless, UUAP does not provide a clear definition or understanding of what constitutes Abuse of Authority, which includes exceeding authority, mixing authority, and/or acting arbitrarily. Additionally, Article 20 of UUAP governs the examination process to determine whether there are elements of abuse of authority by government officials. This article establishes the granting of authority to the Government Internal Supervisory Apparatus (APIP) to supervise against authority

abuse in decisions and/or actions of Government Agencies and/or Officials (paragraph (1)). If, during the supervision of government officials' decisions and/or actions, an administrative error is identified, resulting in state financial losses due to abuse of authority, the government official is required to reimburse the state financial losses within a maximum period of 10 (ten) working days from the decision and issuance of the supervision results (paragraph (4)).

The provisions of Article 20 UUAP mentioned above do not regulate what legal efforts that can be taken by government officials who object to the results of APIP supervision. Likewise, in Article 21 UUAP it is not explicitly regulated whether or not the provisions of Article 21 UUAP can be a form of further legal action which can be taken by government officials who object to the results of supervision of APIP. Meanwhile, regarding substances that stand alone and are separate from Article 20 UUAP, the government officials who feel unsure about the decisions and/or actions they have taken can at any time submit a request to the Administrative Court to assess whether or not there is an element of abuse of authority in the decisions and/or actions the officers have taken.

The magnitude of the impact of abuse of authority on state losses, especially among government agencies or officials, necessitates the need for scientific studies. Therefore, this study discusses what are the elements of abuse of authority in decision-making or actions of government officials, and what are the legal consequences; how are the substances and procedures of the State Administrative Court (PTUN) in examining elements of abuse of authority against decisions or actions of government officials; and what are the legal implications of the administrative court's decision on the petitioner of who is proven to have elements of authority abuse in the criminal process.

METHODOLOGY

This study employed a normative juridical method,[1] using several approaches such as the conceptual approach, the statutory approach and the case approach. These approaches were used because the object of study is an assessment of whether there is an element of abuse of authority by government officials based on the Government Administration Law (UUAP) and other related laws and regulations. Which was then being analyzed in line with the existing legal concepts and principles in administrative law in general, and is linked to the practice of its implementation in the State Administrative Court (PTUN).

Sources of research data are literature consisting of:

1.The primary legal materials used in this study were applicable laws and regulations, such as Law Number 5 of 1986 concerning State Administrative Courts, Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 which is concerning Administrative Courts State Enterprises, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts; Law Number 30 of 2014 concerning Government Administration Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, and Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 which is concerning Eradication of

[1] Christiani T.A., *Normative and empirical research methods: Their usefulness and relevance in the study of law as an object,* "Procedia-Social and Behavioral Sciences" 2016.

Corruption Crimes and Decisions of State Administrative Courts.

2. Secondary legal materials which were in the form of literature on State Administrative Law, State Administrative Court Procedure Law, Criminal Law, as well as other materials which were specifically related to the issues studied.

3. The tertiary legal materials used in this study were taken from dictionaries, magazines, newspapers and internet websites to support the information in the research.

The data obtained was collected and compiled, and then an editing process was carried out which included examining and researching the data obtained to ensure whether the data obtained was correct and could be accounted for in accordance with reality (accurate sources), with considerations of reliability (honesty) and validity.

The collected data was then analyzed qualitatively. Furthermore, the inductive method was used to analyze the data obtained by searching for regulations, both values and legal norms contained in the literature which were then discussed. Based on the results of the discussion, a conclusion was drawn as an answer to the problems studied.

ANALYSIS AND DISCUSSION

Philiphus M. Hadjon states that authority *(bevoegdheid)* is described as legal power by *(rechtsmacht)*.[2] Meanwhile, F.P.C.L. Tonner as quoted in Ridwan HR claims that: "*Overheids-bevoegdheid wordt in dit verband opgevad als het vermogen om positief recht vast te srellen en Aldus rechtsbetrekkingen tussen burgers onderling en tussen overhead en te scheppen*" (the government authority in this regard is considered as the ability to implement positive law, and thus, a legal relationship can be created between the government and citizens).[3] Both constitutional law and administrative law regulate authority. The Constitutional law is related to the composition of the state or organs and the state *(staats, inrichtingrecht, organisatierecht)* Meanwhile, the legal position of citizens relates to rights in relation to the state *(grondrechten)*.[4] In the divisions of a country structure, it is regulated according to the form of the state, the form of government, and the division of powers within the state.

Integral relationship between administrative law and the conception of authority, according to Djatmiati Administrative law or governance law (*administratiefrecht* or *bestuursrecht*) contains governmental law norms. These governmental norms become the parameters used in the implementation of authority by government institutions. Meanwhile, the parameters used in the implementation of authority is either legal compliance or legal non-compliance. Thus, if there is an *improper illegal* use of authority, the authorized government body must be held accountable.[5] Administrative law is essentially related to public authority and methods of testing that authority, as well as laws regarding the control over that authority. H.B. Jacobini in answering questions *"what is administrative law?"* claims that *the definitions of administrative law contains several or all of the*

[2] P. M. Hadjon, [Translation: *About authority*], Yuridika, No. 5 & 6 Year XII, September– Desember, 1997, p. 1.

[3] H.R. Ridwan, [Translation: *State Administrative Law*], Rajawali Pers, Jakarta, 2006, p. 100.

[4] T. S. Djatmiati, [Translation: *Principles of Industrial Business Permits in Indonesia*] Post-Doctoral Dissertation Universitas Airlangga, Surabaya, 2004, p. 62-63.

[5] *Ibidem*, p, 63.

following such components as control of administration, the legal rules, both internal and external, emerging from administrative agencies, the concerns and procedures pertinent to remedying legal injury to individuals caused by government entities and their agents, and court decisions pertinent to all or to parts of these.[6] H.B. Jacobini's conception is sufficient to provide an explanation that the notion of lawsuit accountability (government or state) is related to the concept of administrative law regarding the use of authority in carrying out public service tasks. Indeed, not every concept of administrative law put forward by the jurists contains the same elements. However, in general there is always an element of testing or monitoring of the use of authority by the government.[7]

Abuse of authority in the concept of administrative law is always paralleled with the concept of *détournement de pouvoir*. In *Verklarend WoordenboekOpenbaar Bestuur* it is formulated as *het oneigenlijk gebruik maken van haar bevoegdheid door de overheid. Hiervan is sprake indien een overheidsorgaan zijn bevoegdheid kennelijk tot een ander doel heeft gebruikt dan tot doeleinden waartoe die bevoegdheid is gegeven. De overheid schendt aldus het specialiteitsbeginse*l (inappropriate use of authority, in this case officers use their authority to fulfil other purposes which deviate from the purpose for which it has been assigned. Thus, officials violate the principle of specialization).[8] In measuring whether there has been an abuse of authority, it must be factually proven that officials have used their authority for other purposes. The incidence of abuse of authority is not due to negligence, but consciously, such as diverting the objectives that have been given to that authority. Specially, when the transfer of goals is based on personal interest, either personal interest or other people's interests. Hadjon outlined three main elements of abuse of authority: (1) *Met opzet* (intentionally); (2) Diverting the purpose of authority; (3) There is a negative personal interest.[9] Another element that cannot be ignored to find out whether an official has used his authority for other purposes that deviate from the purpose assigned to that authority is paying attention to basic regulations as a source of authority for the official concerned. This definition is practiced by the Netherlands, France and Indonesia. France enriches this concept with the term *abuse of power* (i.e., the use of authority that exceeds limits, which is inappropriate and does not comply with regulations).

In countries with *a common law* legal tradition, it is said that abusing authority when the government's actions in making decisions are carried out without authority or jurisdiction, and it is called *ultra vires*. Specifically stated by Erliyana that in the handling of cases, in several countries such as France, the Netherlands, Indonesia and the UK there are similarities, namely the abuse of authority where decisions are taken for the benefit of officials and certain groups. Therefore, decisions on state administration are contrary to the public interest.[10] Abuse of authority is only possible for

[6] H.B. Jacobini, *An introduction to comparative administrative law,* New York: Oceana Publications 1991.

[7] The French administrative law literature follows Laubedere's view which suggests four elements of administrative law which include: (1) the administrative organization of the state; (2) the study of administrative activity; (3) the means of actions by which administration is in fact carried out, particularly the personnel employed and the material level utilized; (4) the patterns of litigation or judicial control of administration. H.B. Jacobini, p. 4.

[8] P.M. Hadjon et al. [Translation: *Administrative Law and Corruption Crimes*], Yogyakarta: Gadjah Mada University Press 2011.

[9] P.M. Hadjon, *Op cit.*

[10] *Détournement de Pouvoir* in the rubric of the Legal Dictionary, January 2013 Constitution Magazine. Or for full details see Anna Erliyana, *Presidential Decree: Analysis of the Presidential Decree of the Republic of Indonesia. 1987—*

those who obtain authority on the basis of attribution and delegation. In terms of the mandate, the party that may abuse authority is the *mandans* (task giver) and not the *mandatary* (task executor). The executor of the task *(mandataris*) is not attached to authority, because it is impossible to abuse authority and because of that it is also not burdened with legal responsibility.[11] This is identical with criminal law which has rules for people who carry out tasks based on orders from superiors, so they are not responsible for crime lawsuits. Hence, both in administrative law and criminal law, the party who is given and who abuses authority is the party who is burdened with legal responsibility. This is in line with the principle of *geen bevoegheid zonder verantwoordelijkhedi* and *geen veroontwoordelijkheid zonder verantwoording* (there is no authority without accountability and no accountability without obligation).[12]

The benchmark for abuse of authority for the type of bound authority is statutory regulations (or *written rules*), or using the parameters of the legality principle; whereas in the free authority (discretion) parameters of abuse of authority apply the general principle of good governance, because the "*wetmatigheid*" principle is inadequate.[13] *In line with this doctrine, even if a policy has deviations, whether they are called detournement de pouvoir (abus de droit) or abus de droit (arbitrary), the assessment of these deviations must be in the realm of administrative law, whether the correction is made by the policy issuer, superior or by the State Administrative Court, and not by the criminal law that makes the decision*.[14] Therefore, in terms of policy, criminal aspects or criminalization can only be carried out if it turns out that in making decisions or policies are found actions that fall within the realm of criminal law, for examples, bribery, forgery, and so on.[15]

On the other hand, in America and European countries, the problem of authority abuse and corruption is not in the understanding of "policy" but rather in the problem of the relationship between authority and "bribery". In this regard, the authority of public officials related to policy, both those who are bound and those who are active, is not the domain of criminal law so that recent cases that have often occurred in Indonesia, in particular, are related to abuse of authority and acts against the law, so that increasing the impression that there is a criminalization of policy.[16] In the legal literature, the notion of excessive authority, *(excess of power* or *excès de pouvoir*) it can be simply interpreted as an action that exceeds the limits of its authority *(unlawful act)* so that the legal consequences become

1998, Postgraduate Program, Faculty of Law Universitas Indonesia, Jakarta 2005, p. 82-84.

[11] *Ibidem.*

[12] H. R. Ridwan, [Translation: *Government Discretion and Responsibilities*], Yogyakarta: FH UII Press, 2014, p. 181.

[13] P.M. Hadjon. *Op. Cit.* It needs to be compared with the UUAP which requires the validity of decisions (and actions) to be based on cumulative requirements, fulfilling statutory regulations and General Principles of Good Government (AAUPB) vide Article 8 paragraph (2) of Law Number 30 of 2014 concerning Administration Government, Law (State Gazette of the Republic of Indonesia of 2014 Number 292, Supplement to State Gazette Number 5601).

[14] S.F. Marbun, [Translation: *State Administrative Justice and Administrative Efforts in Indonesia*], FH UII Press, Yogyakarta, 2011

[15] *Ibidem.*

[16] A. Latif, [*Maladministration Actions in Public Services and Their Implications for Corruption*], Varia Peradilan No. 326 January 2013, p. 5.

illegal, similarly to decisions/actions carried out without the basis of authority *(unauthorized)*[17]. The administration of government that acts without the basis of *mutatis mutandis* authority will conflict with statutory regulations because according to the principle of legality every decision/action for administering government must be based on statutory regulations and not conflict with the general principles of good governance. In short, the tabulation of prerequisite parameters for the legitimacy of government decisions/actions can be formulated as follows:

Aspect	Bases / Reasons	Legal Consequences
Authority Procedural Substantial	1.Contrary to legislation; 2.Contrary to general principles pf good governance	Canceled /invalid

According to Andrew Arden as quoted in Djatmiati[18]: *if a decision is in such extreme defiance of logic, no reasonable authority could reach it, so it is conclusive evidence that the decision is improper*. *Unreasonableness* leaves an initial principle if a decision deviates greatly from logic, it can be said to be an unreasonable authority. Arbitrary action in administrative law occurs when a decision deviates greatly from logic or as an unreasonable authority. Arbitrary can be categorized as something that is objectively defined as *irrationality* or *unreasonableness*.[19] However, this reasonableness criterion generally applies in the administrative law tradition in countries with *common law*. Meanwhile the legal criteria for measuring whether or not arbitrariness occurs in the administrative law tradition in countries with *civil law* cannot be based on a single legal criterion as applicable in the *common law* system.[20] In this regard, Visser et al. noted that acts that violate the law are arbitrary

[17] *"An act or decision which is beyond the powers of the actor/decision maker is said to be ultra vires,...may be regarded as having no legal validity"*. H. Bailey et al., *Cases*, *Materials & Commentary on Administrative Law*, 4th Edition, London: Sweet & Maxwell Ltd, p. 241.

[18] Djatmiati, *Op. Cit.*

[19] A. Latif, *Op. Cit.,* p. 27-28.

[20] M. Bobek puts it: "Albeit "reasonableness" and common sense considerations will, in practical terms, be present also in German, Czech or French review of administrative action, it never is an openly acknowledged and self-standing yardstick for judicial review. The formal judicial discourse as far as the existence of the competence and the manner in which it is exercised will always be one of legality, potential excess of powers and their misuse and, within the Germanic legal cultures, one of proportionality. This is not to say that the word "reasonableness" or "rationality" may not occasionally appear in the reasoning of these administrative courts. If it does, however, it only appears as a supportive argument or sometimes perhaps an argument of last resort". M. Bobek, *Reasonableness* [in:] *Administrative Law: A Comparative Reflection on Functional Equivalence*, Czech Society for European and Comparative Law, Dordrecht: Springer Netherlands 2009, p. 311-326.

(willekeur), which is a legal act of an officials who *"aparte onredelijkheid in de belangenafweging* is clearly unreasonable to consider various interests, that is *bij afweging van de betrokken belangen niet in redelijkheid tot de beschikking heef kunnen komen* (government elements in considering various interests regarding decision making which is not based on rational reason).[21] Arbitrary parameters are related to common sense considerations, then these arbitrary elements are tested based on rationality or appropriateness *(rationaliteisbeginsel* or *redelijk).*[22]

1. Authority Abuse According to the Government Administration Law

Based on the analysis above, when linked to the provisions of Articles 18 and 19 of the UUAP, the abuse of authority scheme can be formulated as follows:

No	Form(s)	Element(s)	Legal Consequences	Cancellation Authority
1	Excessive Authority	a. Arbitrarily exceeding position or term of office; b. Exceeding the boundaries of the area of authority and/or: c. Contrary to statutory provisions legislation.	Invalid based on a court decision that has permanent legal force	PTUN
2	Mixing up Authority	a. Outside the scope of the field or subject matter authorized and/or; b. Contrary to the purpose of granted authority	It can be canceled based on a court decision that has permanent legal force.	PTUN
3	Arbitrary	a. Without the basis of authority and/or; b. Contrary to a court decision	It is invalid based on a court decision that has permanent legal force	PTUN

[21] M. Visser et al., *Controlling the courts: New Public Management and the Dutch judiciary,* "Justice system journal" 2019 vol. 40(1), p. 39-53.

[22] *Ibidem.*

		that has permanent legal force		

2. Competence of PTUN in examining Elements of Abuse of Authority

With the promulgation of Law Number 30 of 2014 concerning Government Administration on October 17, 2014 as a legal basis for administering government in an effort to improve good governance. The Government Administration Law provides clear arrangements for administrative order in running the government such as arrangements regarding the rights and obligations of Government Officials, the authority of Government Officials, government decisions, discretion, administrative efforts, administrative sanctions and so forth. Regarding the context of law enforcement, the Government Administration Law is a material source of law for the State Administrative Court system in adjudicating State Administrative disputes. Prior to the establishment of the Government Administration Law, judges often encountered difficulties when dealing with cases whose material law was not regulated in Law no. 5 of 1986. Law No. 51 of 2009 concerning State Administrative Court (UU PTUN), because the PTUN Law only regulated procedural law (formal law). So the way out that was often used was judging based on expert opinion (doctrine) and jurisprudence.[23]

UUAP provides several expansions of absolute competence for PTUN. One of them is in the form of PTUN competence to carry out tests on elements of abuse of authority on decisions and/or actions of Government Officials as emphasized in article 21 UUAP. Examination of elements of abuse of authority has its own procedural guidelines which have been outlined in PERMA No. 4 of 2015 concerning Guidelines for Procedures in Assessing Elements of Abuse of Authority. If the Administrative Court Law uses the term "lawsuit", in PERMA No. 4 of 2015 the term "application" is used. Through the definition of a request in PERMA 4 of 2015, there has been an expansion of authority for PTUN in resolving state administrative disputes as formulated in Article 1 point 4 of the Administrative Court Law.

Originally, TUN disputes were interpreted as disputes that occurred between civil persons or legal entities as plaintiffs and TUN bodies or officials as defendants. With PERMA 4 of 2015 it is expanded with the form of application submitted by a Government institution or Official. Therefore, the judicial oversight mechanism carried out by the Administrative Court is not only through the mechanism of a claim by a civil legal personal or entity, but also through the mechanism of an application by a government agency or official. The expansion of this authority requires the ability of PTUN judges to assess the material being sued, in order to find out whether or not there are any elements of authority abuse in decision-making or actions of government institutions or officials.

3. State Administrative Court (PTUN) Substance in Assessing Elements of Abuse of Authority

[23] P. Thalib et al., *The Comparative Study of Fiqh Siyasah with the General Principles of Good Government in Indonesia*. "Arena Hukum" 2019 vol. 12(2), p 215-34.

State Administrative Court in examining the elements of abuse of authority relating to the subject and object of a lawsuit. PERMA Number 4 of 2015 does not explicitly and clearly explain who can become the plaintiffs. However, indirectly the subjects who become applicants in testing elements of abuse of authority can be seen from the formulation of Article 21 paragraph (2) UUAP and Article 3 PERMA Number 4 of 2015. This provision indicates that plaintiffs or applicants in testing elements of abuse of authority are government institutions and/or officials. Article 21 paragraph (2) UUAP "Agency and/or government officials may submit an application to the court to assess whether there is an element of abuse of authority in making decisions and/or actions. Article 3 PERMA Number 4 of 2015 states that "Government bodies and/or officials who believe their interests have been harmed as a result of supervision of the government's internal control apparatus can submit an application to the competent court containing demands that decisions and/or actions of government officials be declared whether or not there is an element of abuse of authority".

There are context differences of the application between the Government institutions and the Government Officials as the applicants who commit an element of authority abuse. This can be seen from the material requested to be decided in the application as formulated in Article 4 paragraph (1) letter d PERMA No. 4 of 2015. In the event that the applicant is a government agency, the important points of the application submitted to the Administrative Court are to declare that the decisions and/or actions of government officials contain an element of authority abuse as well as declaring the decisions and/or actions of government officials null and void. Conversely, if the applicant is a government official, the important point of the application submitted to the State Administrative Court is to state that the decisions and/or actions of government officials do not contain elements of abuse of authority. In addition, the Government Official also asked the Administrative Court to order the state to return the money that has been paid to the applicant (in case Government Official), in the event that the applicant has returned state losses. Therefore, the writer perceives that the words "*and/or"* in the sentence "Government Agencies *and/or* officials" in UUAP and PERMA No. 4 of 2015 to be inappropriate. The words mean as if a Government Agency together with a Government Official can submit an application at the same time. It is not possible to do this considering the context and importance of the matters being requested by the Administrative Court which are already different as mentioned above.

If it is related to Article 20 paragraph (5) and (6) UUAP which provides a difference in the imposition of state loss recovery, it is very linear with Article 4 paragraph (1) letter d PERMA No. 4 of 2015 regarding applications filed by Government Agencies or Government Officials. If the Government Agency is the applicant, then what is being petitioned for is the declaration of the decision of and/or actions of Government Officials that contains an element of abuse of authority. Therefore, according to Article 20 paragraph (6) of the Government Administration Law, the recovery of state losses is borne by Government Officials. In contrast, if a Government Official is the petitioner, then what is being petitioned for is the statement of the decision and/or actions of the Government Official that do not contain elements of abuse of authority. Hence, according to Article 20 paragraph (6) of the Government Administration Law, the recovery of state losses is borne by the Government agency or institution.

Based on the provisions and studies that have been discussed above, it can be concluded that

in examining the elements of abuse of authority, those who can act as applicants are: 1) Government bodies or officials; 2) There should have been results of supervision by the Government Internal Supervisory Apparatus (or APIP) which states that there has been an administrative error that was detrimental to state finances; 3) it occurs because there is or is not an element of abuse of authority. However, regarding the legal standing of former government officials to submit requests for review of elements of abuse of authority, there is no explicit statement in the Government Administration Law or PERMA No. 4 of 2015 regarding such matter. If referring to the principle of *ex-tunc* testing in system of the State Administrative Court where the State Administrative Court in assessing a State Administrative Decision and/or government action takes into account all the facts and circumstances at the time the State Administrative Decision is issued and/or the action is taken. Therefore, former Government Officials can then also submit requests for examination of elements of abuse of authority even though Government Officials, after issuing decisions and/or taking actions, are no longer in office. It is because those who are held accountable are the Government Officials at the time the government decisions and/or actions are issued.

The object of the petition for examining the element of authority abuse at the State Administrative Court must be related to the absolute competence of the State Administrative Court because it will relate to what can be requested at the Administrative Court. To find out the object of the petition for testing elements of abuse of authority can be seen from the provisions of Article 3 PERMA No. 4 of 2015 which states that: "Government bodies and/or officials who feel their interests have been harmed as a result of the findings of supervision of the government's internal control apparatus can submit an application to the competent court containing demands that the decisions and/or actions of government officials are declared valid or invalid or there is no element of abuse of authority."

If the formulation of Article 3 PERMA No. 4 of 2015 is read partially, that is "Government Agencies and/or Officials who feel their interests have been harmed by the results of the supervision of the government's internal control apparatus ..." it is then illustrated that the object of the application is the results of APIP supervision. Accordingly, the researcher argues that the formulation must be understood comprehensively so that based on the formulation of Article 3 PERMA No. 4 of 2015, the object of the request for testing the elements of authority abuse is the decision of and/or action of a government official. Hal This is reinforced by Article 4 letter (1) PERMA Number 4 of 2015 which regulates the petition material, where one of the elements that must be included in an application is a brief and clear description of the object of the petition in the form of a decision. Therefore, the results of the supervision of the APIP are used as evidence in the form of letters or writings in trials testing elements of abuse of authority. Regarding the decisions and/or actions of Government Officials, the Government Administration Law and PERMA No. 4 of 2015 has provided a definition of government administration decisions and government administration actions. Article 1 number 7 UUAP and Article 1 number 3 PERMA No. 4 of 2015 provide a broader definition of State Administrative Decisions than the State Administrative Court Law, which only uses criteria in the form of "written decisions, issued by Government Agencies or Officials, and these decisions are in the context of administering government".

The State Administrative Court Law more narrowly defines State Administrative Decisions as

a written decision which is concrete, individual and final, as well as generating the legal consequences. However, the Government Administration Law does not necessarily abolish the definitions and criteria for State Administrative Decisions contained in the State Administrative Court Law. It is just that based on Article 87 of the Government Administration Law, these provisions must be interpreted broader than the criteria in State Administrative Court Law.

In order to examine elements of abuse of authority, in particular the object of the petition is formulated separately, such as decisions 'and/or' actions of government officials. Both decisions and actions of Government Officials have also been given their respective definitions. In fact, when referring to Article 87 of the Law on Government Administration which states that one of the State Administrative Decisions must be interpreted as a written determination which also contains factual actions, the actions of Government Officials are also included in the State Administrative Decisions. These provisions emphasize that written decisions are not only in the form of formal actions in the form of written statements, but decisions are also interpreted in the form of factual actions (not solely in written form). That is, a government official is said to issue a KTUN not only as a legal action (*rechthandelingen*), by issuing a written decision form (*beschikking*), but also interpreted in the form of a factual action (*feitelijkehandelingen*). In this case, the author views the actions of government officials (factual actions) including the object of the petition to examine the elements of abuse of authority. It is because this is an integral part of the discretionary provisions stipulated in Articles 22 to 32 of the Government Administration Law.

3.1. Procedures carried out by PTUN in examining elements of abuse of authority

The procedure for examining elements of abuse of authority by PTUN is based on the provisions of Article 2 PERMA No. 4 of 2015. These provisions stipulate that the procedures for examining elements of abuse of authority by the State Administrative Court are restricted, that is after the results of APIP supervision and prior to criminal proceedings. Regarding the practice of prohibiting abuse of authority, the Government Administration Law provides attribution authority for APIP to carry out supervision as stated in Article 20 UUAP.

Based on the provisions of Article 49 of Government Regulation No. 60 of 2008 concerning Government Internal Control Systems, APIP consists of BPKP, Inspectorate General or other names that functionally carry out internal control, Provincial Inspectorates and Regency/City Inspectorates. The method of supervision carried out by APIP on Government Agencies and/or Officials is based on Article 48 paragraph (2) of this Government Regulation that is through audits, reviews, evaluations, monitoring and other supervisory activities. Which can be in the form of outreach regarding supervision, education and supervision training, guidance and consultation, management of supervision results, and presentation of supervision results. The question is, what are the supervisory findings that cause Government Agencies or Officials to feel that their interests have been harmed so that it becomes the authority of the State Administrative Court to examine elements of abuse of authority.

The problems mentioned above can be studied from the provisions based on Article 20 UUAP, that the results of APIP supervision are divided into 3 (three) such categories as there are no errors, there are administrative errors, and there are administrative errors that cause losses to state finances.

APIP Supervision can be described in the chart below:

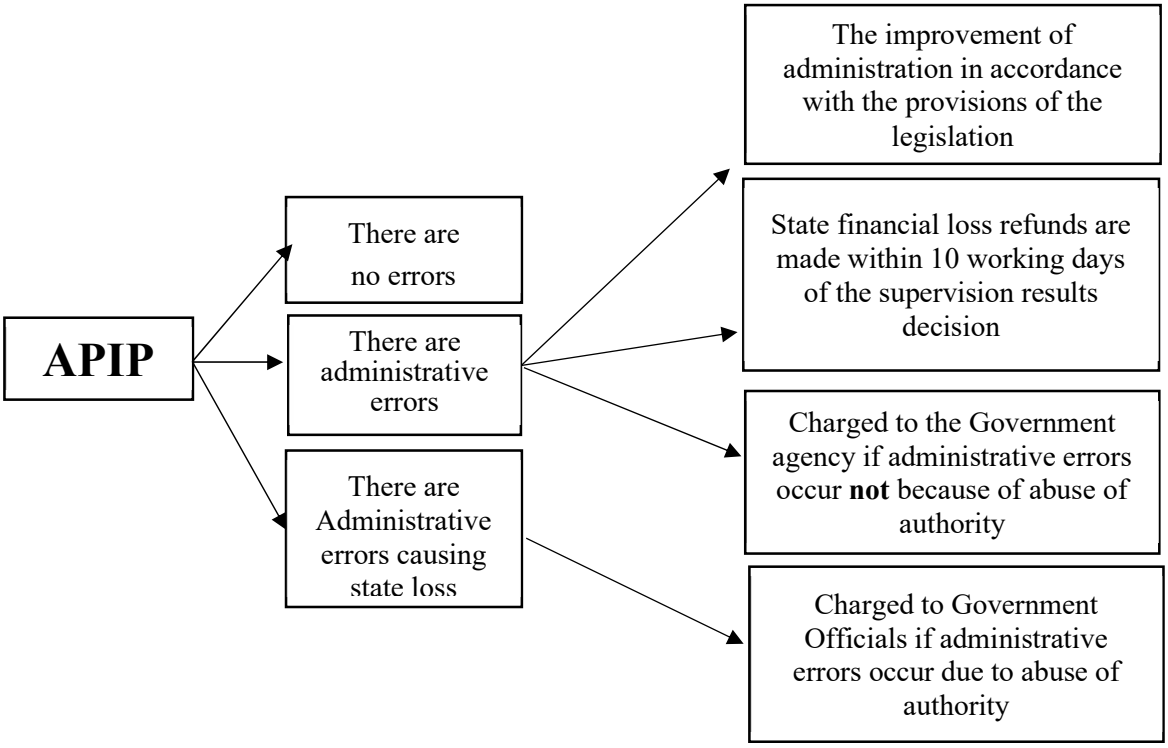

Figure 1. APIP Supervision of the Prohibition of Abuse of Authority

If there is an administrative error, it is followed up in the form of administrative improvements in accordance with the provisions of the laws and regulations. In the event that there is an administrative error that results in a loss to state finances, and there is no abuse of authority. Afterward, the return on state financial losses will be borne by the government agency. However, if an administrative error causes state financial loss due to abuse of authority, the return of state financial losses is borne by Government Officials.

Based on the description of the provisions of Article 20 UUAP above, it can be concluded that the way APIP can be controlled is by conducting an audit. Specifically related to the conclusion of the results of APIP supervision which states that there is an administrative error that results in losses to state finances, whether or not there is an abuse of authority. The examination is in the form of an incidental examination with a specific purpose at the request of a Law Enforcement Officer (APH). The form of examination with a specific purpose that is relevant to the conclusion of the results of APIP supervision which states that there is an administrative error that is detrimental to state finances, either due to abuse of authority or not being a form of investigation. Not to mention, the audit of the calculation of state financial losses. Thus, the results of APIP supervision become the basis for an application to the State Administrative Court to examine elements of abuse of authority because Government Agencies and/or Officials feel disadvantaged. The statement is in the form of an audit report with a specific purpose, namely examination of the computation of State Financial losses; which conclude that there are administrative errors that cause losses to state finances, and there is no abuse of authority or administrative errors that cause losses to state finances due to abuse of authority.

After the results of APIP supervision are published, UUAP does not regulate the time limit for submitting a petition for testing elements of abuse of authority to PTUN. While Article 20 UUAP regulates that if the results of APIP supervision are in the form of administrative errors that cause state losses, the period for returning state financial losses is no later than 10 (ten) days from the decision and issuance of the results of APIP supervision. However, there are no further provisions regarding the provisions of Article 20 UUAP regarding procedures for recovering financial losses. Article 20 UUAP does not regulate the postponement of the obligation to recover financial losses if an Agency or Government Official submits a petition for testing elements of abuse of authority to the PTUN because they feel disadvantaged by the results of the APIP Supervision. Therefore, by returning financial losses in advance based on the results of APIP supervision, it is as if the Government Agency or Official has agreed that the Government Official's decision and/or action has or has not involved abuse of authority. So, according to the researcher, in the absence of provisions for delaying the obligation to return financial losses for Government Agencies or Officials, the examination of abuse of authority by PTUN loses its meaning and certainty.

Article 2 paragraph (1) PERMA No. 4 of 2015 also provides a limit (restriction) on the absolute competence of PTUN to examine elements of abuse of authority, namely Pre-criminal proceedings. This PERMA also does not explicitly provide a limitative definition of the phrase "before criminal proceedings". When looking at the Criminal Code (KUHP) or the Criminal Procedure Code (KUHAP), the definition of criminal proceedings is also not found. Therefore, this can lead to multiple interpretations for APHs that cause legal uncertainty.

In order to understand the phrase "criminal process" the researcher uses the term Criminal Justice Process from Frans Hagan which is associated with the Criminal Procedure Code in Indonesia. Frans Hagan as noted in Anggoro that the Criminal Justice Process is a series of procedures by which society identifies, accuses, tries, convicts, and punishes offenders.[24] The Criminal Justice Process is interpreted by Hagan as each stage of a decision that confronts a suspect in a process that leads to the determination of its sentence. If Hagan's definition is related to the Criminal Procedure Code, the criminal process is interpreted as the process by which criminal law is carried out starting from investigation, examination, prosecution, examination in court, legal remedies, until the implementation of the decision (execution). Based on the concept, it can be interpreted that what is meant by "pre criminal proceedings" in Article 2 paragraph (1) PERMA No. 4 of 2015 is before the process of inquiry or investigation. If what is meant by PERMA No. 4 of 2015, prior to the investigation process, the researcher believes that petitions for testing elements of authority abuse submitted by Government Agencies or Officials to PTUN have the potential to be declared unacceptable (*niet ontvankelijke verklaard*). This is related to the practice that has been occurring so far that supervision by APIP, especially BPKP, in terms of audits with a specific purpose (investigative audits and audits for calculating state financial losses) comes from the initiative of investigators (police, prosecutors, KPK). From the aforementioned process it can be said that the criminal process has been running. This is different if the implementation of APIP supervision has been carried out effectively and objectively,

[24] Anggoro F.N., [Translation: *Examination of Elements of Abuse of Authority Against Decisions and/or Actions of Government Officials by Administrative Court*], "Fiat Justisia: Jurnal Ilmu Hukum" 2016 vol. 10(4), p. 647-70.

especially for APIP originating from the internal environment of an agency (Inspectorate General, Provincial Inspectorate, Regency/City Inspectorate). With the support of public legal awareness that prioritizes the prevention of criminal acts of corruption through optimizing the role of APIP in the internal environment of an agency compared to using criminal methods, Article 2 paragraph (1) PERMA No. 4 of 2015 can be implemented. Therefore, the researcher believes that it is necessary to change the phrase "before/pre the criminal proceedings process" to "before the determination of the suspect in the criminal process". Therefore, the construction that is built specifically relates to the alleged Article 3 of the Corruption Law after a report or complaint related to the alleged Article 3 of the Corruption Law enters through APH as examiners or investigators. Examiners or investigators can then confirm to APIP a government agency whose officials are suspected of having committed a criminal act of abuse of authority, or to the BPKP. The investigator or examiner ascertains whether or not there is an abuse of authority committed by the official who is suspected of being supervised by APIP, and what the results of APIP's supervision conclude. Additionally, based on these results, whether or not there is an effort that has been done or is being made to examine the elements of abuse of authority at the State Administrative Court. If an attempt is made to examine the elements of abuse of authority at the State Administrative Court, the investigator or examiner gives the right to the suspect in Article 3 of the Corruption Law to resolve it until the decision of the State Administrative Court has permanent legal force.

Furthermore, the author believes that this legal construction does not conflict with the spirit of the investigative process as stated in Article 1 point 5 and number 2 of the Criminal Procedure Code before someone is named a suspect. Of course, in maintaining legal certainty, efforts to investigate and examine this criminal process must also be supported by amendments to PERMA No. 4 of 2015 which requires a time limit for the right to test elements of abuse of authority at the Administrative Court after the issuance of the APIP results. Hence, investigators or examiners can ensure that if based on the results of the APIP state there has been an abuse of authority. If within a predetermined time period a trial is not submitted to the Administrative Court, the investigators or examiners can process the Government Officials suspected of violating Article 3 of the Corruption Law into the realm of crime.

Furthermore, legal arrangements that bind law enforcers in the investigation and examinations process are needed before naming a government official as a suspect for alleged Article 3 of the Corruption Law. It is to prioritize approaches through optimizing the role of APIP and paying attention to PTUN decisions. This is actually in line with the mandate of Article 385 of Law no. 23 of 2014 concerning Regional Government which was born before the existence of UUAP. It is however just that Law No. 23 of 2014 regulates legal action for civil servants in regional agencies only and not for all government officials because this law regulates more those related to regional government. Article 385 Law No. 23 of 2014 states that law enforcement officials carry out inspections of complaints submitted by the public after first coordinating with APIP or non-ministerial government agencies in charge of supervision (Irjen/Irprov/Irkab/Irkot). If based on the results of the inspection evidence of administrative irregularities is found, further processing is submitted to APIP. On the other hand, if based on the results of the examination, evidence of irregularities of a criminal nature is found, further processing is handed over to law enforcement officials in accordance with statutory provisions.

After the UUAP came into force, according to the researcher, there has not been or found any petitions to examine elements of authority abuse against decisions and/or actions of Government Officials that were granted by the State Administrative Court (PTUN). Several cases were declared unacceptable (*niet onvankelijk verklaard*), one of which was the decision of the Jakarta State Administrative Court Number 250/P/PW/2015/PTUN-JKT where the petitioner was Surya Dharma Ali (former Minister of Religion of the Republic of Indonesia). The petition was declared inadmissible (*niet ontvankelijke verklaard*) because based on the statement of the attorney of for the petitioner, the testimony of witnesses from the BPKP, and based on the judge's knowledge obtained during the trial, a criminal process had taken place and even had become public knowledge (*notoire* of facts) in a criminal case with the defendant Surya Dharma Ali (In case the petitioner), which has been terminated by the Corruption Court at the Central Jakarta District Court.

Similarly, the Palangkaraya State Administrative Court Decision No. 15/P/PW/2016/PTUN.PLK was declared unacceptable (*niet ontvankelijke verklaard*). The petitioner on behalf of Andrey Dulu (a retired Civil Servant) is currently undergoing an investigation process at the Tamiang Layang District Attorney's Office and has the status of a suspect so that the personnel of judges believe that the criminal proceedings against the petitioner are ongoing. In this case the researcher believes that something is not right going on regarding this case because there are parties who are respondents, so it is also not right if there are objections from respondents to the main points of the petition. In other words, the petition for testing the elements of abuse of authority is more unilateral in nature so that the defendant is not required. In addition, there was an error in determining the object of the petition that was in the form of an Investigation Order. As stipulated in Article 3 and Article 4 letter (1) PERMA Number 4 of 2015, the things that should be the object of the application are decisions and/or actions of government officials. In addition, an investigation warrant is a KTUN which is exempted in the law of the State Administrative Court (PTUN). Based on the provisions of Article 2 letter d of the Administrative Court Law, which is stated: "Not included in the definition of KTUN if the KTUN issued is based on the provisions of the Criminal Code or Criminal Procedure Code or other laws and regulations that are criminal law in nature ".

Prior to the issuance of PERMA Number 4 of 2015, a Medan State Administrative Court Decision Number 25/G/2015/PTUN-MDN had been found. This case stemmed from a petition submitted by the Head of the Finance Bureau of the North Sumatra Provincial Government, Ahmad Fuad Lubis, to the Medan State Administrative Court. The investigation was carried out at the Medan State Administrative Court which was carried out on the basis of the issuance of an Investigation Warrant (or *Sprindik*) with allegations of corruption in the Social Assistance Fund (Bansos) of the South Sumatra Provincial Government in 2012-2013 which was investigated by the South Sumatra State Administrative Court. The Medan State Administrative Court panel of judges who was led by Tripeni Irianto Putro granted Achmad Fuad Lubis' petition and stated that the North Sumatra Attorney General's Office had abused his authority in carrying out his duties related to the investigation of Achmad Fuad Lubis in the alleged corruption case of the North Sumatra Provincial Government's Social Assistance Fund (Bansos).

In the above case, according to the author, there was an error in determining the object of the application that was in the form of an Investigation Order. In addition, the subjects of the petition in

this case consisted of the petitioner and the defendant, as is the case with a disputed claim, so that in its decision the Medan State Administrative Court panel of judges granted the applicant's petition and stated that the defendant, in this case the North Sumatra High Court, had been proven to have committed an abuse of authority. This was made possible because at that time there were no procedural guidelines in assessing elements of abuse of authority as implementing regulations of Article 21 UUAP. PERMA No. 4 of 2015, which confirms that in examining the element of abuse of authority the trial examination does not go through a dismissal process or preparatory examination. In other words, this is considering that the State Administrative Court, in examining elements of abuse of authority, was only given the authority to decide on petitions no later than 21 working days after the petition was submitted. Regarding objections to the decision of the State Administrative Court, PERMA No. 4 of 2015 provides an opportunity for the Petitioner (Government Agency or Official) to make an appeal to the State Administrative High Court where the decision of the State Administrative High Court is final and binding.

4. Legal implications of PTUN decisions for petitioners who are said to have evidence or no evidence of elements of authority abuse in the Criminal Justice Process.

An issuance of a decision (*beschikking*) or governmental action can have legal implications both in terms of administrative law and criminal law. These implications in the perspective of criminal law can be in the form of a criminal act of corruption, because a criminal act of corruption is a criminal act that arises from the exercise of authority as a Government Official in the framework of administering government. Whereas there is a point of contact between administrative law and criminal law in a decision and/or action of the said Government Official if it has caused losses to state finances as a result of acts of abuse of authority (*detorunement de pouvoir).*

Basically, administrative errors cannot be held criminally accountable. However, if the administrative error is intentional and is realized to be detrimental to state finances and is carried out by enriching/benefiting oneself or another person or corporation, then this is the location of the nature of being against corruption criminal law. In relation to the criminal law on corruption, especially Article 3 of the Corruption Law, administrative violations can be a cause for the emergence of unlawful acts if the intentional element (will and conviction) is to benefit oneself by abuse of office power, which is therefore detrimental to the country's finances or economy. Administrative actions that meet these requirements form criminal liability. The transfer of accountability from administrative law to the realm of criminal responsibility occurs when there is an act against criminal law (*wederrechtelijkheid*) which is preceded and followed by malicious intent (*mens rea*) in issuing government decisions or actions.

Utrecht stated that one of the reasons for the invalidity of the KTUN is the lack of juridical will of the issuing state apparatus caused by fraud (*bedrog*), coercion (*dwang*), and misjudgment (*dwaling*). Whereas, KTUNs which are issued due to an error in judgment (dwaling) and coercion (*dwang*), the responsibility is only administrative in nature so that the legal consequences of the KTUN can be cancelled. In contrast to state administrative decisions issued because of an element of fraud (*bedrog*), there is an element of malicious intent (*mens rea*) in issuing decisions and actions of government officials. Therefore, every decision and/or action of a Government Official taken on the basis of

personal interest contains elements of fraud (*bedrog*), bad faith (*kwade trouw*), and abuse of authority (*detournement de pouvoir*) which have implications for state losses. In this case it can be said that it has met the elements of a criminal act of corruption.

Article 21 UUAP becomes the legal umbrella for Government Officials because it is the legal basis for identifying whether a decision and/or action of a Government Official contains an administrative error or abuse of authority which results in a criminal act. Whether or not there is an element of abuse of authority is tested by the principle of specialty (*specialiteitsbeginsel*), such as the principle which determines that authority is given to government bodies with a specific purpose. Therefore, if a government official commits an act that deviates from the purpose of being given authority, it is considered a form of abuse of authority and becomes the absolute competence of the Administrative Court. Thus, the absolute competence of PTUN to examine elements of abuse of authority is only in the form of accountability of Government Agencies or Officials for administrative errors that result in state losses.

The existence of Article 21 UUAP above as a principle of PTUN's authority provides protection for Government Officials in making decisions and/or taking actions. This is of course in accordance with the principle of *Presumptio Iustae Causa* or the principle of presumption of *rechtmatig*, which in this principle implies that every action of a Government Official must always be considered *rechtmatig* (considered valid) until there is an annulment. In other words, decisions and/or actions of government officials must be considered correct and implemented immediately, unless the competent court states otherwise.[25] The existence of the placement of the concept of abuse of authority in the context of governance as stipulated in the UUAP, while Article 3 of the Corruption Law places the element of abuse of authority as a *bestanddeel delict* (core offense) that can actually run in parallel. Within the realm of law, both have their own legal principles and arrangements, as in criminal law, it is known as the principle of "*autonomie van het materiele straftrecht*" (autonomous rights of material criminal law) however this principle may not contradict or enter into other areas of legal principles, for example, the principle of administrative law. This means that the application of legal principles should not result in legal disorder (disorder law), because there will be misguidance and destruction of the legal order. However, it must be understood constructively towards the integrity of the legal order where they can complement each other.[26]

Paulus Effendi Lotulung said that in the petition of law, equality of perception will create legal certainty, which in turn will prevent or avoid disparities in decisions or inconsistencies in decisions because judges have applied unequal standards to cases that are similar to cases that have been decided or tried by a previous judge. Thus, the researcher believes that the implication of the PTUN decision stating that there is an abuse of authority will provide further paths for the criminal process, especially the allegation of Article 3 of the Corruption Law. The Administrative Court's decision stating that there is an abuse of authority actually becomes a tool for criminal proceedings because law enforcers no longer need to prove the abuse of authority as a *bestanddeel delict* (core offense) in Article 3 of the

[25] I. Fathudin, [Translation: *Corruption Crimes of Public Officials: Perspective of Law Number 30 of 2014 concerning Government Administration*], "Cita Hukum Journal UIN Syarif Hidayatullah," 2015 vol. 2(1), p 128.

[26] Jurgens G., Van Ommeren F., *The public-private divide in English and Dutch law: a multifunctional and context-dependant divide,* "The Cambridge Law Journal" 2012 vol. 71(1) p 172-99.

Corruption Law.

Based on administrative law, a government official who commits a criminal act of corruption, especially Article 3 of the Corruption Law, can be sure to have violated the norms of apparatus behavior (*gedragsnorm*), because the government official has committed a disgraceful act or committed an act of maladministration. In addition to violating the norms of apparatus behavior, government officials who abuse their authority can be categorized as violating government norms *(bestuurnorm*), one of which is UUAP. Hence, the "low degree of differentiation" system applies, that is, the existence of administrative sanctions does not rule out criminal sanctions. On the contrary, the legal implication of the PTUN decision which states that there is no abuse of authority must be obeyed for every law enforcement officer not to criminally process a Government Official suspected of Article 3 of the Corruption Law. This is in line with Indriyanto Seno Adji's statement which outlines the elements of Article 3 of the Corruption Law as follows "abusing authority" as "*bestandeel delict*" and "with the aim of benefiting..." as an "element *delict*". "*bestandeel delict*" is always related to acts that can be punished (*strafbare handeling*), while "element *delict*" does not determine whether an act can be punished or not. Therefore, if the abuse of authority is not proven, the other elements do not need to be proven.[27]

CONCLUSIONS

Examination of elements of authority abuse against the decisions of *and/or* actions of Government Officials by PTUN includes the authority of PTUN which is based on Law Number 30 of 2014 concerning Government Administration and Supreme Court Regulation Number 4 of 2015 concerning Procedure Guidelines in Assessing Elements of Abuse of Authority. The substance of the test relates to the subject of the application, namely a Government Agency or Official and the object of the application called the Decision and/or Action of a Government Official. The testing procedure is limited, that is after the results of APIP supervision and before the criminal process. The legal implications of PTUN decisions stating that the decisions and/or actions of government officials contain elements of abuse of authority can proceed to the criminal process (criminal process) as long as there is evidence of malicious intent (*mens rea*). Furthermore, the legal implications of the Administrative Court Decision stating that the Decisions and/or Actions of Government Officials do not contain elements of abuse of authority. Basically, it cannot be continued in the criminal process, because the best and *delict* of Article 3 of the Corruption Law is not fulfilled.

Suggestions

It is necessary to review the substance of Regulation (PERMA) No. 4 of 2015 Proceeding Guidelines in Assessing Elements of Abuse of Authority, particularly regarding the subject of the Petitioner and the substance of the PTUN's absolute competence limitation, which is to examine the elements of abuse of authority prior to criminal proceedings. Even though the Administrative Court's decision is *erga omnes*, it is also necessary for the Supreme Court to issue a PERMA which contains provisions regarding the obligation for law enforcement officials to comply with the PTUN's decision

[27] N.B. Minarno, [Translation: *Abuse of Authority in Regional Financial Management which Implicates Corruption Crimes*], Surabaya: Laksbang Mediatama, 2011, p. 35.

which states that a Government Official has not abused his authority so as not to proceed to criminal proceedings. Law enforcement officials (APH) should pay attention to the principle of *lex posterior derogat legi priori*, which is related to the mechanism for handling allegations of abuse of authority so that it prioritizes the role of APIP and provides an opportunity for Government Officials to first examine whether or not there is an element of abuse of authority at the State Administrative Court.

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