

**LEGAL REVIEW OF PTUN DECISION NO. 87/G/2014/PTUN-JKT
RELATED TO THE DISPUTE OVER THE DISMISSAL OF STUDENTS
BY THE UNIVERSITY**

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Abstract

Agent of change is one of the roles given to students, but sometimes in the process they experience obstacles until they are finally dismissed by the Chancellor, so that the decision needs to be analyzed from the perspective of state administrative and constitutional law. The research was conducted using the Normative Juridical Method through literature study and case analysis of PTUN Decision No. 87/G/2014/PTUN-JKT. The problems discussed are: (1) whether the decision is a *beschikking* that can be used as an object of dispute at the PTUN, and (2) how the constitutional basis strengthens the jurisdiction of the PTUN in this case. The results of the study show, First, that the rector's action fulfills the elements of a State Administrative Decision (*Beschikking*) and is thus valid as an object of lawsuit. Second, the jurisdiction of the State Administrative Court in the dispute is strengthened not only from the juridical aspect, but also from the principle of due process of law, the values of Pancasila, and the guarantee of the right to education in the constitution, thus recommending the need for caution of university officials in making administrative decisions to remain in line with the principle of substantive justice.

Keywords : State Administration, *Beschikking*, Constitution, Higher Education, PTUN

INTRODUCTION

As subjects of higher education, students not only bear academic responsibilities, but are also agents of change and have fundamental rights guaranteed by the constitution. The right to education, legal protection, and fair administrative treatment in the academic process are part of the fundamental rights that cannot be ignored in a country governed by the rule of law. In the Indonesian context, these rights are guaranteed in the Indonesian constitution, which mandates that every citizen has the right to develop themselves through education.

More than just participants in the learning process, students are also an integral part of the implementation of the Tri Dharma Perguruan Tinggi, namely education, research, and community service. These three pillars show that the relationship between students and universities is not merely an administrative one, but also an academic and social relationship that is inherent in the noble ideals of the nation. Therefore, any administrative action concerning student status should not be interpreted solely as an internal campus matter, but also as an action that has an impact on students' contribution to national development through the Tri Dharma.

In practice, conflicts often arise between university administrative policies and students' individual rights. One concrete example of such conflicts is the unilateral dismissal of students by university authorities. Such disputes have occurred in cases between students and universities, which then proceeded to the administrative court through Case No. 87/G/2014/PTUN-JKT. This dispute raises a fundamental legal question regarding whether the rector's decision to expel a student falls under the category of a “beschikking” that can be challenged as the subject of a lawsuit in the Administrative Court.

A similar issue was previously addressed in the Supreme Court Decision No. 210K/TUN/2001, which marked a significant milestone in the development of educational administrative law in Indonesia. In that decision, the Supreme Court affirmed that the rector's action in expelling the student, despite originating from a private university, remains an administrative decision of the state because it is concrete, individual, and final, and issued by an official exercising public authority. This demonstrates that the influence of private legal entities does not eliminate the public character of administrative actions when they concern the rights of citizens.

The case of higher education institutions in this matter highlights the importance of re-examining the concept of *beschikking* in the realm of higher education. Additionally, this reinforces the relevance of constitutional foundations as the basis for the legitimacy of the Administrative Court's authority to oversee administrative actions that may violate citizens' rights. The principle of due process of law, which requires that every decision affecting rights must go through a valid legal procedure, is the main foundation for defending student rights in the judicial sphere.

This journal will examine two important aspects of the dispute. First, whether the rector's dismissal of students meets the elements of *beschikking* as determined in state administrative law. Second, how does the constitutional basis strengthen the jurisdiction of the Administrative Court in handling this case, while affirming that the protection of citizens' rights must always be supervised by the judiciary?

Based on the dispute between students and the university in case No. 87/G/2014/PTUN-JKT, this journal will discuss two main issues:

1. Does the rector's decision to expel students constitute a *beschikking* that is the subject of dispute in the Administrative Court?
2. How does the constitutional basis strengthen the jurisdiction of the Administrative Court in examining and deciding disputes over the expulsion of students by universities?

LITERATURE REVIEW**A. The Concept of *Beschikking* in Administrative Law and the Subject Matter of PTUN Disputes**

In administrative law, the term *beschikking* refers to a written decision issued by an administrative body or official within the scope of governmental authority, which has concrete, individual, and final legal consequences for a person or legal entity. This decision is the primary subject matter that can be disputed in the Administrative Court, which was established to review the validity of individual and concrete governmental actions. According to Article 1(9) of Law No. 30 of 2014 on Administrative Governance, an Administrative Decision (KTUN) or *beschikking* is a written determination issued by a government body or official in the conduct of government affairs, which is individual, concrete, and has legal consequences for an individual or private legal entity.

Pursuant to Article 1(9) of Law No. 5 of 1986 on State Administrative Courts, as amended by Law No. 51 of 2009, there are several elements required for a decision to be classified as a State Administrative Decision (KTUN) that can be challenged in the PTUN, namely: written, issued by an administrative official, made in the course of performing government duties, concrete, individual, final, and having legal consequences for an individual or civil law entity.

According to Philipus M. Hadjon, an administrative decision that can be challenged in the Administrative Court must be final, meaning it does not require further approval from another authority. This finality signifies that the decision has been administratively concluded and is legally binding. Similarly, according to Indroharto, for a decision to be categorized as a *beschikking* that can be challenged in the PTUN, it must meet the following elements: it must be in the form of a written decision, issued by a state administrative official, containing TUN legal actions based on applicable laws and regulations, be concrete, individual, and final, and have legal consequences.

In the context of the dismissal of students by the rector, this action is typically documented in the form of an official decision letter issued by a university official. Therefore, based on its elements, this action can be categorized as a *beschikking* and is thus subject to being brought as a dispute before the Administrative Court. Supreme Court Decision No. 210K/TUN/2001 is an important precedent stating that the expulsion of students by the rector constitutes a *beschikking*. This is because the decision directly affects the legal status of students as subjects whose rights are guaranteed within the national education system.

In the context of higher education, the decision to expel a student must also be viewed within the framework of the Tri Dharma of Higher Education, namely: education, research, and community service. An expulsion that is not based on principles of justice and transparent procedures has the potential to violate the student's right to education as part of the implementation of the first dharma. As considered in Supreme Court Decision No. 210K/TUN/2001, the Court stated that the rector's decision regarding the status of students can be classified as an administrative act of the state because it meets the characteristics of being final, concrete, and individual, and has a direct impact on the rights of citizens to obtain education. Therefore, such decisions must be subject to the principles of administrative law.

As stated in the journal by Herman and Noor (2021), a *beschikking* is a public legal instrument that can be the subject of a lawsuit as long as it is unilateral and binding on a person. Pratiwi and Tanaya (2023) also emphasize that such actions must not be arbitrary and must be subject to legal review through administrative court proceedings.

B. Constitutional Basis of PTUN Jurisdiction

Constitutionally, the existence of the Administrative Court in Indonesia is guaranteed in Article 24 paragraph (2) of the 1945 Constitution, which states that judicial power is

exercised by the Supreme Court and subordinate courts, including administrative courts. This court has the authority to examine, adjudicate, and decide on administrative disputes between citizens and the government. As explained by Aniko et al. (2023), the PTUN was born from the idea of providing a space for justice for the public to challenge administrative decisions that potentially violate legal principles. In this context, the PTUN is a concrete manifestation of the principle of the rule of law, namely judicial control over government actions.

The establishment of the PTUN is not merely an administrative necessity but part of a system of checks and balances against the abuse of power by state officials. Therefore, affirming this constitutional basis is very important because administrative disputes in the education sector concern the basic rights of citizens, including the right to education guaranteed by Article 31 of the 1945 Constitution. Thus, any form of decision that obstructs this right, such as the dismissal of students, can directly become the subject of judicial review by the PTUN.

According to Jimly Asshiddiqie, state administrative courts such as the PTUN embody the principle of the rule of law (*rechtstaat*) because they provide citizens with the opportunity to challenge arbitrary actions by state officials. Thus, the PTUN's jurisdiction in cases of student expulsion constitutes a form of protection for constitutional rights and strengthens the principle of justice in Indonesian administrative law. In the journal by Widodo and Anjani (2022), it is also emphasized that the PTUN's jurisdiction includes the protection of citizens' rights in the social and public service sectors, including education. They refer to the PTUN as the “guardian of constitutional values in bureaucratic practice.”

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D. The Philosophical Dimensions of Pancasila in the Jurisdiction of the Administrative Court

As the philosophical foundation of the state, Pancasila provides normative and ethical guidance for the entire national legal system, including the jurisdiction of the Administrative Court. The Second Principle, “Just and civilized humanity,” emphasizes the importance of

respect for human dignity in all state administrative decisions. The dismissal of students without a fair and transparent process clearly contradicts the spirit of justice and humanity embodied in this principle. The Fifth Principle, “Social justice for all Indonesian people,” affirms that the legal system must guarantee equitable justice, including access to education. In this context, the PTUN functions to ensure that every individual is treated fairly by the state and educational institutions under the influence or authority of the state.

According to Kaelan, Pancasila as the philosophical foundation of law has an integralistic nature, meaning that the state must ensure synergy between power and citizens' rights, not pit them against each other. Therefore, the PTUN serves as an extension of the values of Pancasila that are alive and operational within Indonesia's legal system.

RESEARCH METHODS

This journal article uses a normative legal research methodology, which is an approach based on analysis of legislation, legal doctrine, court decisions, and relevant legal principles. This approach was chosen because the subject matter falls within the realm of administrative law, specifically regarding the authority of public officials and the protection of citizens' rights in the field of higher education.

According to Peter Mahmud Marzuki, normative legal research “places greater emphasis on the inventory and examination of legal principles and the systematics of positive law in force.” This study also examines the legal reasoning used by the judge in PTUN Decision No. 87/G/2014/PTUN-JKT, comparing it with similar jurisprudence, particularly Supreme Court Decision No. 210K/TUN/2001.

The analysis technique used is qualitative, interpreting legal texts systematically, grammatically, and teleologically. In this interpretation process, a conceptual approach is used to explore the essence of *beschikking* and court jurisdiction, and a constitutional approach is used to link the authority of the Administrative Court with the protection of the right to education. As stated by Johnny Ibrahim, “normative legal research is conducted by examining library materials or secondary data as a basis for understanding law as a system of norms.”

The data sources in this journal include primary legal materials (laws, court decisions), secondary legal materials (books, journal articles), and tertiary legal materials (legal dictionaries, legal encyclopedias). All data were analyzed descriptively and analytically to answer the previously established research questions.

In addition, this study also utilizes a limited case approach, namely by using PTUN Decision No. 87/G/2014/PTUN-JKT and Supreme Court Decision No. 210K/TUN/2001 as concrete illustrations in explaining the application of the administrative and constitutional law concepts being studied. However, the case approach is not the main focuses of this study, but rather serves as a contextualization of the normative conceptual analysis.

RESULT AND DISCUSSION

A. The Rector's Action to Expel Students as a *Beschikking*

In the context of administrative law, the rector's action of dismissing a student has characteristics that meet the elements of an Administrative Decision (KTUN) as stipulated in Article 1(9) of Law No. 5 of 1986 in conjunction with Law No. 51 of 2009. These provisions state that a decision may be challenged in the Administrative Court if it meets the following elements: it is a written decision, issued by an administrative official, in the conduct of government affairs, is concrete, individual, final, and has legal consequences for an individual or legal entity.

The written decision to expel a student issued by the rector is a written product of an educational official exercising part of the state's functions, namely the conduct of public higher education. Although higher education institutions may be private legal entities, the rector

remains a public official (*bestuursorgaan*). Therefore, the rector's actions fall within the scope of public administrative officials. The dismissal decision is individual because it is directed at a specific student, concrete because it concerns specific facts and circumstances, and final because there are no further administrative steps that can overturn it. This decision also has direct legal consequences, namely the loss of status as an active student, and practically hinders the right to obtain higher education.

In the journal "Analysis of the Existence of Administrative Courts in Resolving Disputes Over Decisions by Rectors of Private Universities" by Asasiputih (2022), it is stated that: "A private university rector's decision may be considered an object of dispute in the Administrative Court if it meets the elements of a *beschikking*." This indicates that a rector's decision, even though it originates from a private institution, can be categorized as a *beschikking* if it meets certain criteria, thereby making it eligible to be brought as an object of dispute in the Administrative Court.

The analysis was conducted systematically, by breaking down each element of the decision: that the rector's action was individual (targeting a specific student), concrete (based on specific facts), final (not requiring further confirmation), and had direct legal consequences (loss of student status). Thus, this action constitutes a *beschikking* that can be challenged in the Administrative Court. Furthermore, a grammatical approach was used to understand the term "decision" in an administrative sense. The word "decision" does not merely refer to the form of a letter, but also to the substance of the action that gives rise to legal consequences. This is in line with the view of S.F. Marbun, who states that:

"An action by a TUN official can be classified as a beschikking if it clearly binds a specific party and results in a change in legal status."

From a teleological perspective, the administrative action of the rector must be interpreted in light of the constitutional purpose of education, which is to ensure the development of every citizen. Thus, the dismissal of a student without following proper procedures and principles of administrative justice contradicts the very purpose of the law itself.

Supreme Court Decision No. 210K/TUN/2001 is an important precedent. In that case, the Supreme Court stated that the rector's decision to expel a student, even though it originated from a private university, is a valid *beschikking* that can be challenged in the Administrative Court because it directly impacts the student's constitutional right to education. Thus, the rector's decision to expel the student in Case No. 87/G/2014/PTUN-JKT meets all the elements of a *beschikking*, making it valid as the subject of an administrative dispute.

B. Strengthening the Jurisdiction of the Administrative Court from a Constitutional and Pancasila Philosophical Perspective

The jurisdiction of the Administrative Court in handling disputes such as student dismissals is based not only on legal-formal aspects, but also on constitutional and philosophical aspects. The existence of the PTUN as a specialized court for reviewing public administrative disputes is not only grounded in legal terms under Law No. 5 of 1986 but is also reinforced by constitutional foundations in Article 24(2) and Article 31 of the 1945 Constitution. Article 24 states that judicial power includes administrative law, while Article 31 states: "Every citizen has the right to education."

The unilateral dismissal of students without due process (right to be heard) and without a clear legal basis constitutes a violation of the principle of due process of law and may be considered an act that disregards the constitutional rights of citizens. The Administrative Court functions as a corrective instrument against the possible abuse of authority by public officials. As stated by Zul Amirul Haq and M. Faiz Putra Syanel:

"The Administrative Court serves as a constitutional bridge in fighting for the rights of citizens against unfair administrative actions."

Systematically, the jurisdiction of the PTUN can be traced from national legal instruments, from the 1945 Constitution to sectoral regulations such as the State Administrative Court Law. Grammatically, the interpretation of the phrase “TUN official” in the context of a campus should be seen as an official who performs governmental functions in the field of education. Therefore, the jurisdiction of the PTUN remains applicable, even if the subject is a private university or an autonomous legal entity. From a teleological perspective, the jurisdiction of the PTUN must be directed toward achieving constitutional objectives, namely ensuring protection of educational rights, guaranteeing administrative justice, and upholding the law as a protector of citizens.

Furthermore, the philosophy of Pancasila gives ethical weight to the existence of the PTUN's jurisdiction. The Second Principle, Humanity that is just and civilized, demands that all actions of the government or public officials be carried out with respect for human dignity. In this context, students are not merely objects of administrative policy but also legal subjects entitled to fair treatment. The Fifth Principle, Social Justice for All Indonesian People, requires that the legal system, including the judiciary, ensure that no citizen loses their basic rights due to arbitrary administrative actions. The jurisdiction of the Administrative Court in adjudicating cases of student dismissal is a form of operationalization of the value of social justice.

In the journal “Judicial Activism in the Administrative Court as an Effort of Progressive Judges to Protect the Constitutional Rights of Citizens” by Zul Amirul Haq and M. Faiz Putra Syanel (2022), it is stated that: “The Administrative Court serves as a bridge for legal efforts that can be undertaken by the public in fighting for their constitutional rights.” This statement underscores the role of the Administrative Court as a mechanism for protecting citizens' constitutional rights, including in the context of the right to education.

According to Kaelan, Pancasila embodies an integralistic spirit, meaning harmony between power and rights, not a conflict between the state and the people. In this context, the Administrative Court embodies the values of Pancasila in a tangible way, as it protects individual rights through a fair legal mechanism. Thus, the Administrative Court does not merely operate within legal-formal boundaries but also bears constitutional and philosophical responsibilities to safeguard citizens' fundamental rights, including the right to education. This underscores that in Case No. 87/G/2014/PTUN-JKT, the PTUN has constitutional, moral, and philosophical authority to review and adjudicate disputes related to students fairly.

CONCLUSIONS

Based on the analysis of PTUN Decision No. 87/G/2014/PTUN-JKT and relevant legal grounds, the following conclusions can be drawn: First, the rector's decision to expel students falls under the category of *beschikking*, which is subject to appeal in the State Administrative Court. This decision meets all the elements of an Administrative Court Decision (KTUN), namely being in writing, individual, concrete, final, and having legal consequences. Therefore, the Rector's action can be legally challenged before the Administrative Court. Second, the jurisdiction of the Administrative Court in cases of student expulsion is constitutionally and philosophically reinforced. The Indonesian Constitution guarantees the right to education and protection against administrative actions that violate the principle of justice. Additionally, the values of Pancasila philosophy, particularly the Second and Fifth Principles, provide an ethical and normative foundation for the necessity of judicial control over arbitrary actions by higher education officials. The systematic, grammatical, and teleological analytical techniques employed have demonstrated that administrative actions within the educational sphere must be understood not only from a formal legal perspective but also from the perspective of their intended purpose: to protect citizens' constitutional rights and uphold substantive justice.

Therefore, it is recommended that there should be national procedural guidelines for universities in imposing administrative sanctions on students, so that they align with the principles of justice and constitutionality.

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