

## **RESOLUTION OF DISPUTES OVER LABOR INSPECTOR DETERMINATIONS ON OVERTIME WAGE DEFICIENCIES**

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### **Abstract**

Workers sometimes encounter differences in calculation with employers regarding the amount of overtime wages they should receive. In such cases, workers tend to leave the resolution of overtime wage discrepancies to labor inspectors. Labor inspectors will examine the implementation of overtime wage payments and issue a determination of the overtime wage amount. Parties who object to this determination may pursue legal remedies in the administrative court. The court's decision on the determination may result in either an acceptance (kabul) decision or a dismissal decision. These differing decisions are intriguing to analyze, as they pertain to the same administrative object but may lead to two different outcomes. The objective of this study is to analyze how labor inspector determinations in disputes over unpaid overtime wages constitute administrative decisions and to examine the legal application in resolving such disputes to provide legal certainty for both employers and workers. This study employs a normative juridical research method analyzed qualitatively. The study concludes that labor inspectors' determinations meet the criteria for administrative decisions. The application of the law through acceptance decisions provides greater legal certainty as it aligns with the fulfillment of administrative dispute criteria under statutory regulations and ensures legal certainty for both employers and workers regarding the payment of unpaid overtime wages.

Keywords: Workers; Overtime wages; Labor Inspectors

**INTRODUCTION**

Work is a fundamental element of human life to meet social and economic needs, whether for oneself, others, or both (Prasetya, 2021). Law No. 13 of 2003 on Manpower defines the concept of employment as everything related to labor, both before, during, and after the employment period (Agusmidah, 2010). Workers provide the energy or services necessary to produce goods or services. Therefore, workers must receive fair compensation for their contributions to ensure they can adequately meet their own and their families' needs. Hence, a fair wage mechanism must be established in line with employees' contributions.

Wages are the right of workers/laborers as compensation for the services they provide to employers. Wages also serve as motivation for workers to improve their performance and productivity. Therefore, wages must be determined fairly, transparently, and in accordance with applicable regulations. In labor law, the protection of workers is given significant attention. The position of employers and workers is often unequal due to the weaker bargaining position of workers. Hence, the state must provide mechanisms for worker protection (Khakim, 2020).

The right to wages is stipulated in Article 1, paragraph 3 of Law No. 13 of 2003, which states that workers/laborers are entitled to receive wages and/or other forms of compensation as remuneration for work performed. This definition includes two essential elements: individuals performing work and receiving wages and/or other forms of remuneration (Maimun, 2003).

These wages are a fundamental right of workers/laborers that must be protected by the state and employers. One of the fundamental rights of workers/laborers is to receive wages corresponding to the tasks performed. Thus, employers are obligated to pay wages promptly and fairly, as stipulated by the law. To support this, the government has issued wage policies governing various aspects of wages, including overtime wages.

Overtime wages are regulated in Government Regulation No. 35 of 2021, defined as wages paid by employers to workers/laborers who perform tasks during overtime work hours. The implementation of overtime is limited to a maximum of 4 hours per day and 18 hours per week. Employers are obligated to: a. Pay overtime wages; b. Provide sufficient rest opportunities; and c. Provide food and drinks with a minimum of 1,400 calories if overtime work lasts for 4 hours or more.

The regulation also outlines the calculation of overtime wages during normal working days: for the first hour, the rate is 1.5 times the hourly wage; for each subsequent hour, the rate is 2 times the hourly wage. In practice, discrepancies in calculating overtime wages between employers and workers/laborers often lead to disputes.

Disputes regarding overtime wage payments can be resolved through two mechanisms: 1. the industrial relations dispute resolution process; or 2. a determination by labor inspectors.

In practice, workers tend to favor resolution through labor inspectors due to cost and time efficiency. If workers report a dispute over overtime wage payments, labor inspectors will examine the implementation of overtime wages and issue a determination regarding the amount. If either party (employer and/or worker) disagrees, they may request a review of the determination by labor inspectors within the Ministry of Manpower, which is final and binding.

However, this determination may face challenges from employers in the form of lawsuits filed in Administrative Courts to annul the labor inspector's determination. In such cases, the court will examine whether the determination constitutes an administrative decision and whether the dispute falls within the jurisdiction of administrative courts.

In practice, rulings on such lawsuits may vary. For example, in Decision No. 115/G/2020/PTUN-JKT, the Jakarta Administrative Court ruled that the plaintiff's claim was inadmissible, as the dispute was deemed to fall under industrial relations disputes, which are under the jurisdiction of the Industrial Relations Court. Conversely, in Decision No. 231/G/2021/PTUN-JKT, the Jakarta Administrative Court ruled in favor of the plaintiff,

annulling the labor inspector's determination. The court considered the determination to be an administrative decision and the dispute to fall under its jurisdiction.

These differing rulings highlight inconsistencies in interpreting administrative decisions and disputes, which impact the jurisdiction of administrative courts. For similar legal cases, uniform application of regulations is essential to avoid discrimination and provide legal certainty for both employers and workers.

Nonetheless, these differences reflect the independence of the judiciary, a prerequisite for upholding law and justice. Without judicial independence, the realization of justice is impossible (Zuhrah, 2024).

Based on the above background, this study aims to: 1. analyze how labor inspectors' determinations in disputes over overtime wage deficiencies constitute administrative decisions; and 2. examine the legal application in resolving disputes over overtime wage deficiencies that ensures legal certainty for employers and workers.

## **RESEARCH METHODS**

This research is a normative juridical study, which involves examining and analyzing the substance of legislation and court decisions closely related to the subject matter or legal issues being studied. The research adopts a legal science approach, enabling it to provide a comprehensive understanding of the problems addressed in this study. The data collection method utilized is document analysis or literature review, which constitutes a library-based research approach.

## **DISCUSSION**

### **The Position of Labor Inspector Determinations in Overtime Wage Dispute Cases**

Labor inspection is a state function to enforce labor laws, carried out by labor inspectors. Through this function, the state ensures the protection of its citizens in the realm of labor. Government involvement in labor law aims to create equitable labor relations. This is necessary because, if the relationship between workers and employers—who often differ significantly in social and economic power—is left entirely to the parties, achieving justice in labor relations would be highly challenging. In such situations, the stronger party tends to dominate the weaker one. Therefore, government intervention is essential to ensure justice (Situmorang, 2010).

In this study, determinations issued by labor inspectors were challenged by PT Indah Logistik in case number 115/G/2020/PTUN-JKT and by PT Pelayaran Nasional Ekalya Purnamasari in case number 231/G/2021/PTUN-JKT. The plaintiffs argued that the labor inspector determinations should be revoked because they were inconsistent with applicable regulations and the general principles of good governance.

To ascertain whether the labor inspector's determinations in cases 115/G/2020/PTUN-JKT and 231/G/2021/PTUN-JKT constitute Administrative Decisions, the author analyzes their conformity with the elements of an Administrative Decision as outlined in Article 1, point 9 of Law No. 51 of 2009 and Article 87 of Law No. 30 of 2004, as follows:

1. **Written Determination.**  
Both labor inspector determinations are in written form, with the format and structure specified in Minister of Manpower Regulation No. 1 of 2020. The regulation prescribes that labor inspector determinations must adhere to the format outlined in its annex.
2. **Issued by an Administrative Agency or Official.**  
Both determinations were issued by labor inspectors under the Directorate General of Labor Inspection Development and Occupational Safety and Health at the Ministry of Manpower, an administrative agency or official.
3. **Contain Administrative Legal Actions Based on Applicable Legislation.**

The determinations constitute administrative legal actions in the labor sector, involving the calculation and determination of overtime wages in accordance with labor laws and regulations. These determinations were issued based on Article 28 of Minister of Manpower Regulation No. 1 of 2020, which mandates that labor inspectors, upon finding deficiencies in workers' rights during inspections—such as unpaid overtime wages—must calculate and determine the owed wages.

4. Concrete, Individual, and Final Nature
  - The determinations are concrete, as they are not abstract but tangible and specific in nature, taking the form of official letters with clear instructions directed at PT Indah Logistik and PT Pelayaran Nasional Ekalya Purnamasari.
  - They are individual because they are addressed specifically to certain entities—namely, PT Indah Logistik and PT Pelayaran Nasional Ekalya Purnamasari—rather than to the public.
  - They are final as they do not require approval from higher-ranking officials. The determinations are definitive and do not need further validation from other bodies or entities, as stipulated in Article 28 of Minister of Manpower Regulation No. 1 of 2020, which affirms that labor inspectors' recalculations and determinations at the central government level are final and must be implemented.
5. Create Legal Consequences for Individuals or Legal Entities.

Both labor inspector determinations impose legal obligations on the respective companies to pay the overtime wage deficiencies owed to their employees.

Based on the above analysis, the author concludes that the labor inspector determinations in cases 115/G/2020/PTUN-JKT and 231/G/2021/PTUN-JKT fulfill the elements of an Administrative Decision as defined in Article 1, point 9 of Law No. 51 of 2009.

Furthermore, the author's view is supported by the legal considerations of the Constitutional Court justices in Constitutional Court Decision No. 7/PUU-XII/2014. The justices' considerations state that labor inspector determinations qualify as Administrative Decisions because they are concrete, individual, and final, and they create legal consequences for an individual or a private legal entity. The legal considerations are as follows:

1. The determinations issued by labor inspectors are prepared in written form.
2. Pursuant to Article 1, point 8 of Law No. 51 of 2009, labor inspectors are classified as administrative officials, as they perform governmental functions in the field of labor based on applicable laws and regulations.
3. The written determinations issued by labor inspectors constitute administrative legal actions that carry administrative legal consequences for specific workers and/or companies.

### **The Application of Law in Resolving Disputes Over Overtime Wage Deficiencies to Provide Legal Certainty for Employers and Workers**

Disputes regarding deficiencies in overtime wage payments are a significant issue in industrial relations. Essentially, overtime wages are a worker's right that must be fulfilled in accordance with statutory provisions. However, in practice, disputes often arise between workers and employers regarding the amount of overtime wages. These disputes require a resolution mechanism that not only ensures justice but also provides legal certainty for both parties. Regulations concerning overtime wages must be implemented consistently and fairly. Consistent enforcement of the law will not only deliver justice to workers who feel aggrieved but also provide legal certainty for employers in fulfilling their obligations. Legal certainty allows employers to avoid risks of sanctions from the government and lawsuits from workers, while workers can receive their rights clearly and definitively.

In this study, disputes over deficiencies in overtime wage payments were resolved through labor inspection mechanisms, culminating in decisions by the Administrative Court. Based on the author's research, thus far, there are only two types of Administrative Court rulings related to disputes over overtime wage payments: inadmissible decisions (*Niet Ontvankelijke Verklaard*) and favorable decisions. Examples of such rulings examined in this study include Decision No. 115/G/2020/PTUN-JKT and Decision No. 231/G/2021/PTUN-JKT.

In Case No. 115/G/2020/PTUN-JKT, the panel of judges ruled the case inadmissible on the grounds of lack of absolute jurisdiction by the Administrative Court. The judges' reasoning was influenced by the plaintiff's *positum*, which emphasized the dispute over rights between the parties. In its legal considerations, the court briefly explained that although the plaintiff filed the lawsuit requesting the Administrative Court to declare null and void the recalculation and determination of workers' rights in the form of overtime wages issued by the defendant, the core issue involved a dispute over rights between the plaintiff and Haerudin et al. (16 employees of PT Indah Logistik Makassar Branch for the 2017–2018 period) related to wage deficiencies.

Pursuant to Law No. 13 of 2003 on Labor and Law No. 2 of 2004 on Industrial Relations Dispute Settlement, the dispute falls under the category of rights disputes within industrial relations. Consequently, the panel of judges concluded that jurisdiction over such disputes lies with the Industrial Relations Court as a special court under the District Court.

The panel's opinion aligns with several final and binding decisions, including Supreme Court Cassation Decision No. 281 K/TUN/2019 dated June 27, 2019, and Jakarta Administrative Court Decision No. 129/G/2018/PTUN-JKT dated November 1, 2018, in a case between PT Guna Bangun Jaya and the Labor Inspector of the West Jakarta City Manpower and Transmigration Office. Both decisions declared that lawsuits against labor inspector determinations were inadmissible because the subject matter of the lawsuits pertained to disputes over wages or rights, which are legal issues under the domain of labor and/or industrial relations law. As such, they fall outside the absolute jurisdiction of the Administrative Court.

Therefore, in Case No. 115/G/2020/PTUN-JKT, the panel also held that the core of the plaintiff's lawsuit was a legal dispute within the domain of labor and/or industrial relations law. Based on the principle of *lex specialis derogat legi generali* (special laws override general laws), disputes between the plaintiff and defendant, being legal disputes in the realm of labor/industrial relations law, could not be submitted to the Administrative Court. Instead, they must be brought before the Industrial Relations Court as a specialized court within the District Court. Consequently, the Jakarta Administrative Court declared it lacked absolute jurisdiction to examine and adjudicate the case.

According to the author, the legal reasoning in Case No. 115/G/2020/PTUN-JKT is deemed less accurate for several reasons: disputes concerning labor inspector determinations fall within the category of administrative disputes; the Administrative Court has jurisdiction to examine, adjudicate, and resolve disputes in the field of administrative law; and labor inspector determinations are not excluded from the category of Administrative Decisions as stipulated by the Administrative Court Law.

Based on Article 1 Point 10 of Law No. 51 of 2009, an administrative dispute is a dispute arising in the field of administrative law between individuals or private legal entities and administrative bodies or officials, both at the central and regional levels, as a result of the issuance of an administrative decision, including employment disputes under the applicable laws and regulations. To determine whether the dispute in Case No. 115/G/2020/PTUN-JKT falls under the category of administrative disputes as defined in Article 1 Point 10 of Law No. 51 of 2009, the author analyzes its compliance with the following elements:

1. The first element is a dispute that arises in the field of administrative law between individuals or private legal entities and administrative bodies or officials, either at the

central or regional levels. In this case, PT Indah Logistik, as the plaintiff, is a private legal entity, while the defendant is the Director of Labor Standards and Social Security Supervision of the Ministry of Manpower/labor inspector as an administrative official at the central level who issued the determination. The lawsuit was filed against the re-determination by the labor inspector, which constitutes a determination arising in the field of administrative law.

2. The second element is that the dispute arises as a result of the issuance of a state administrative decision, including employment disputes based on applicable laws and regulations. In this case, the lawsuit arose from the issuance of the re-determination by the labor inspector. The re-determination constitutes an administrative decision as defined in Article 1 Point 9 of Law No. 51 of 2009, as previously explained by the author.

Based on the analysis above, the author concludes that the dispute in Case No. 115/G/2020/PTUN-JKT fulfills the elements of an administrative dispute as defined in Article 1 Point 10 of Law No. 51 of 2009.

Furthermore, the re-determination by the labor inspector does not fall under the exceptions to administrative decisions outlined in Article 2 of Law No. 9 of 2004. Therefore, this determination can serve as an object of litigation in the Administrative Court.

Conversely, in Case No. 231/G/2021/PTUN-JKT, the panel of judges rendered a favorable decision on the grounds that the dispute constituted an administrative dispute within the absolute jurisdiction of the Administrative Court. Additionally, the issuance of the labor inspector's re-determination was procedurally and/or substantively inconsistent with statutory regulations and the general principles of good governance.

In their legal considerations, the panel briefly explained that, under Article 47 of Law No. 5 of 1986, the court is authorized to examine, adjudicate, and resolve administrative disputes. One of the elements of an administrative dispute is that it arises in the field of administrative law, which establishes its jurisdiction under the Administrative Court. According to the judges, the labor inspector's re-determination in this case met the criteria of an administrative decision, and the dispute satisfied the elements of an administrative dispute. Based on these considerations, the panel concluded that the Jakarta Administrative Court had absolute jurisdiction to examine, adjudicate, and resolve the case.

In the author's view, the panel's reasoning, which asserts that the Jakarta Administrative Court has absolute jurisdiction to examine, adjudicate, and resolve this case, is correct for several reasons: disputes related to labor inspector determinations fall under the category of administrative disputes; the Administrative Court has jurisdiction to examine, adjudicate, and resolve disputes in the field of administrative law; and the labor inspector's determination does not fall under the exceptions to administrative decisions outlined in the Administrative Court Law. Regarding the court's jurisdiction and the exceptions to administrative decisions, as previously explained by the author, the analysis will further elaborate on why disputes concerning labor inspector determinations fall within the category of administrative disputes.

To determine whether the dispute in Case No. 231/G/2021/PTUN-JKT falls under the category of Administrative Disputes as defined in Article 1 Point 10 of Law No. 51 of 2009, the author provides the following analysis:

The first element of an Administrative Dispute is that the dispute arises in the field of administrative law between an individual/private legal entity and an administrative body/official, either at the central or regional level. In Case No. 231/G/2021/PTUN-JKT, PT Pelayaran Nasional Ekalya Purnamasari, as the plaintiff, is a private legal entity, while the defendant is a Labor Inspector from the Ministry of Manpower within the Directorate of Labor Inspection Development and Occupational Safety and Health (K3), acting as an administrative official at the central level who issued the determination. The lawsuit was filed against the re-

determination by the labor inspector, which constitutes a determination arising in the field of administrative law. Thus, this element is fulfilled.

The second element of an Administrative Dispute is that it arises as a result of the issuance of an administrative decision, including employment disputes under the applicable laws and regulations. In this case, the lawsuit arose from the issuance of the labor inspector's re-determination. The re-determination constitutes an administrative decision as defined in Article 1 Point 9 of Law No. 51 of 2009, as previously explained by the author. Therefore, all elements of an Administrative Dispute are fulfilled.

Legal certainty regarding a decision can be assessed from the legal considerations of the panel of judges, which outline the fulfillment of the elements of the article rather than merely relying on jurisprudence. Fulfillment of the elements of the article provides greater legal certainty as the decision is based on statutory provisions. When examining the two decisions from the perspective of the elements of the article, the decision in Case No. 231/G/2021/PTUN-JKT provides a clearer articulation of the fulfillment of these elements compared to the decision in Case No. 115/G/2020/PTUN-JKT.

Moreover, a decision of inadmissibility introduces a degree of legal uncertainty for employers and workers. With an inadmissibility decision, the determination by the labor inspector remains valid but cannot be executed if the employer chooses to continue the dispute through the industrial relations dispute resolution mechanism as regulated by Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes. Pursuing this path would restart the dispute resolution process, thereby prolonging the proceedings. Additionally, there is a potential for dualism regarding the amount of overtime pay that must be paid, as determined by the labor inspector's determination versus the decision of the industrial relations dispute resolution body.

From the perspective of legal certainty, the author concludes that a favorable decision provides greater legal certainty for employers and workers compared to an inadmissibility decision. This is because the court declares the labor inspector's determination null and void, relieving the employer of the obligation to pay the shortfall in overtime wages.

## **CONCLUSION**

The re-determination by the labor inspector meets the elements of an administrative decision as referred to in Article 1 Point 9 of Law No. 51 of 2009. The determination contains the key characteristics of an administrative decision: it is individual, concrete, and final. The Administrative Court panel of judges, in their legal considerations for Decision No. 231/G/2021/PTUN-JKT, also stated that the re-determination by the labor inspector concerning overtime wage violations constitutes an administrative decision subject to judicial review. Moreover, in the legal considerations of the Constitutional Court's Decision No. 7/PUU-XII/2014, the judges emphasized that a written determination by a labor inspector is an administrative decision with concrete, individual, and final attributes, producing legal consequences for an individual or private legal entity.

Thus, it can be concluded that the labor inspector's determination in cases of disputes over overtime wage deficiencies not only satisfies the elements of an administrative decision but also has a strong legal basis to serve as the object of litigation in the administrative court.

The application of legal principles in resolving disputes over overtime wage deficiencies should adhere to consistent legal standards to produce uniform decisions. The difference in rulings in the two cases discussed in this study arises from variations in the legal reasoning of the judges, which are influenced by differences in the plaintiff's legal basis (*posita*) and the defendant's responses.

In the inadmissibility ruling in Case No. 115/G/2020/PTUN-JKT, the plaintiff's *posita* focused more on the rights dispute between the parties. Consequently, the judges determined

that this issue did not fall within the jurisdiction of the Administrative Court and ruled the lawsuit inadmissible. Additionally, the judges placed greater emphasis on prior decisions without elaborating in detail on the fulfillment of the elements of an administrative dispute and an administrative decision. As a result, the legal considerations in this decision lack clarity regarding the fulfillment of the requirements for administrative disputes and administrative decisions, which should have been the primary focus in examining the labor inspector's re-determination within the context of administrative law.

Conversely, in the favorable ruling in Case No. 231/G/2021/PTUN-JKT, the panel of judges outlined the elements of administrative disputes and administrative decisions that were fulfilled. The legal considerations in this decision focused more on analyzing the elements of administrative disputes and administrative decisions in accordance with statutory provisions. Based on the fulfillment of these elements, the ruling affirmed that the re-determination by the labor inspector is a valid object of litigation in the Administrative Court and provides a strong legal foundation for resolving the dispute in the Administrative Court.

A favorable ruling tends to provide higher legal certainty because it is based on an analysis of and compliance with the elements of administrative disputes and administrative decisions as stipulated in statutory provisions, as compared to an inadmissibility ruling. This favorable ruling also provides clearer legal certainty for employers and workers regarding the payment of overtime wage deficiencies. Furthermore, such a ruling eliminates the potential for dualism in determining the amount of overtime wage deficiencies if the parties choose to resolve their dispute through the industrial relations dispute resolution mechanism.

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