

**PENGATURAN TERHADAP HAKIKAT KEPUTUSAN TATA USAHA
NEGARA MENURUT UNDANG-UNDANG PERADILAN TATA USAHA
NEGARA DAN UNDANG-UNDANG ADMINISTRASI PEMERINTAHAN**

TESIS

*Diajukan Untuk Memenuhi Sebagai Syarat
Mencapai Gelar Magister Hukum*



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PADANG
2018**

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135 Halaman, Tahun 2018**

ABSTRAK

KTUN sebagai objek sengketa di PTUN telah diatur dalam UU PTUN termasuk prosedurnya. Setelah diundangkannya UU Administrasi Pemerintahan, KTUN dan prosedurnya ini juga turut diatur dalam UU Administrasi Pemerintahan, namun terdapat perbedaan dalam pengaturan terhadap hakikat keputusan dan prosedurnya. Rumusan masalah dalam penelitian ini adalah 1) Bagaimana Perbandingan Pengaturan terhadap Hakikat Keputusan Tata Usaha Negara Menurut Undang-undang PTUN dan Undang-undang Administrasi Pemerintahan, 2) Bagaimana implikasi dari Pengaturan terhadap Hakikat Keputusan Tata Usaha Negara dalam Undang-undang PTUN dan Undang-undang Administrasi Pemerintahan. Jenis penelitian yang digunakan adalah penelitian hukum normatif. Pendekatan penelitian yang digunakan adalah pendekatan perundang-undangan dan pendekatan konseptual. Bahan hukum yang digunakan adalah bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Teknik pengumpulan bahan hukum yang digunakan adalah studi dokumen. Teknik analisis bahan hukum yang digunakan adalah teknik analisis kualitatif. Berdasarkan hasil penelitian dapat disimpulkan bahwa 1) terdapat perbedaan pengaturan terhadap 3 aspek yang diatur dalam UU PTUN dan UU Administrasi Pemerintahan, yaitu pertama pengaturan terhadap hakikat KTUN, dimana konsep KTUN menjadi diperluas setelah lahirnya UU Administrasi Pemerintahan dan berimplikasi pada diperluasnya kompetensi PTUN; kedua pengaturan terhadap status permohonan yang didiamkan oleh Badan dan/atau Pejabat TUN, yang sebelumnya fiktif negatif namun setelah lahirnya UU Administrasi Pemerintahan menjadi fiktif positif; ketiga pengaturan terhadap pengajuan gugatan yang melalui upaya administratif berupa banding. Meskipun terdapat perbedaan, pengaturan untuk hukum materil berpedoman kepada UU Administrasi Pemerintahan dan hukum formil tetap berpedoman kepada UU PTUN 2) Implikasi dari Pengaturan terhadap hakikat KTUN dalam UU PTUN dan UU Administrasi Pemerintahan adalah terjadinya perluasan kriteria KTUN dan perluasan kewenangan PTUN, keputusan fiktif positif yang tidak dapat memberikan jaminan hukum dan pengajuan gugatan ke PTUN terhadap sengketa yang melalui upaya banding administratif yang tidak sesuai dengan asas peradilan yang sederhana, cepat dan biaya murah.

**Kata Kunci: Keputusan Tata Usaha Negara , Undang-Undang Peradilan
Tata Usaha Negara , Undang-Undang Administrasi
Pemerintahan.**

**SETTLEMENT OF THE STATE OF THE DECREE OF BUSINESS
STATEMENTS ACCORDING TO THE ACTIVITIES OF THE STATE AND
BUSINESS CONDUCT OF GOVERNMENT ADMINISTRATION**

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135 Pages, Year 2018***

ABSTRACT

Decision of State Administration as the object of dispute in the state administrative court has been regulated in the statutory administrative law of the state including its procedures. After the promulgation of the law of the Government Administration, The state administrative decisions and procedures are also governed by the laws of the Government Administration. but there are differences in the arrangement of the nature of decisions and procedures. The formulation of the problem in this research is 1). How to Comparison of Regulations on the Importance of Decision of State Administration by State Administrative Court Act and Government Administration Act, 2). How the implications of the Regulation on the nature of the Decision of State Administration in the State Administration Court Act and the Government Administration Act. Type of research used is normative legal research, The research approach used is approach to legislation and conceptual approaches. The legal material used is primary legal materials, secondary law materials and tertiary legal materials. The technique of collecting the legal material used is study documents. The technique of analysis of legal materials used is qualitative analysis techniques. Based on the results of the study can be concluded that 1). there are different settings against the 3 aspects set forth in laws of state administrative courts and government administration laws that is, the first is the regulation of the nature of the state administrative decisions, where the concept of state administrative decisions to be expanded after the birth of Government Administration law and has implications for the expanded competence of state administrative courts. the second is the regulation of the status of the government's silenced petition, where previously it was fictitiously negative but after the birth of the Law of Administration Administration became positive fictitious. third is the arrangement of a lawsuit filed through an administrative appeal in the form of an appeal, Although there are differences, arrangements for material law are guided by the laws of the Government Administration and formal law remains guided by the state administrative court law. 2). Implications of Arrangements on the nature of state administrative decisions in state administrative justice laws and Government Administration laws are the occurrence of expansion of the criteria of state administrative decisions and expansion of the authority of the state administrative court. a positive fictitious decision can not provide legal guarantees and the filing of a lawsuit to the state administrative court against a dispute which through administrative appeals does not conform to the principle of a simple, quick and low-cost trial.

***Keywords: Decision of State Administration, Law of Administrative Courts,
Government administration law.***