





# Gema Wiralodra

Publication details, including instructions for authors and subscription information:  
<https://gemawiralodra.unwir.ac.id>

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|  | <b>Gema<br/>WIRALODRA</b>  |
|   |  |
|   | Editor-in-Chief: Yudhi Mahmud  |
|   |  Publisher: Universitas Wiralodra |

## The Legal Binding Power of the State Administrative Court's Decision In the 2024 General Election

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### To cite this article:

Nursidi, D., Suneri, S., Suhendar, S. (2025). The Legal Binding Power of the State Administrative Court's Decision In the 2024 General Election. *Gema Wiralodra*, 16 (1),1 – 11.

### To link to this article:

<https://gemawiralodra.unwir.ac.id/index.php/gemawiralodra/issue/view/34>

### Published by:

Universitas Wiralodra  
Jln. Ir. H. Juanda Km 3 Indramayu, West Java, Indonesia

## The Legal Binding Power of the State Administrative Court's Decision In the 2024 General Election

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### Abstract

In the case of Irman Gusman, the KPU RI cq KPU West Sumatra did not implement the Jakarta PTUN decision, but on the other hand carried out the interlocutory decision of the Constitutional Court of the Republic of Indonesia to implement the PSU by including Irman Gusman so that even though the person concerned obtained the fourth most votes, but because he had been crossed out in the DCT of the Candidate for DPD Member of the West Sumatra Dapil, Irman Gusman was declared Failed to Qualify as an Elected DPD Member. This incident shows the complexity of the interests in the legal process which is inconclusive in the administration of the electoral system in Indonesia. For this reason, the problem is formulated as follows: (1) How is the legal binding force of the decision of the State Administrative Court that is qualified as non-executable?; (2) How is the execution of the decision of the State Administrative Court Number: 600/G/SPPU/2023/PTUN. JKT. which is non-executable? In this study, a descriptive method with a juridical-normative approach is used, and the data is analyzed qualitatively by emphasizing the use of applicable laws and regulations, expert opinions and research results. The results of the study show that: (1) As long as the judge's decision is not canceled, then as long as the decision remains legally binding even though it cannot be implemented (Non-Executable); (2) PTUN Decision Number: 600/G/SPPU/2023/PTUN. JKT cannot be carried out because the KPU RI Cq KPU West Sumatra adheres to the Election Stages that have been set.

**Keywords:** Court Decision, PTUN, KPU, Election

### 1. Introduction

The implementation of judicial power is carried out by the Supreme Court and the judicial bodies subordinate to it within the scope of general justice, the scope of religious court, the environment of military justice, the environment of state administrative justice, and by a constitutional court."

The State Administrative Court is one of the exercises of judicial power to administer justice in state administrative disputes, "The judiciary has the duty and authority to examine, decide and resolve State Administrative Disputes".

The decision handed down by the court is in principle binding on the parties involved in the case, even for the PTUN decision the implications it creates will be binding on all parties because the object of the dispute is the decision of a public official (state administration official) (Gusthomi et al., 2024; Laritmas et al., 2022; Razak, 2023). In practice, there are still PTUN decisions that already have permanent legal force (inkracht) that cannot be carried out (executed), even though the execution process is the target of justice seekers and this is the benchmark in resolving a legal dispute. Execution of a decision is the realization of an action or obligation that must be carried out by the parties concerned. However, in the implementation of the execution there are still problems that occur due to non-compliance by the parties in carrying out the execution of court decisions that have permanent legal force, especially regarding sanctions received by state officials who do not have the awareness to carry them out (Putra, 2021).

Sanctions in State Administrative Court (TUN) decisions include the revocation of TUN decisions, forced money penalties (*dwangsom*), the imposition of administrative sanctions, and, if these sanctions are not adhered to, the official failing to execute the court's decision will be publicly announced in the media by the court clerk (Fajar & Wibowo, 2023; Noor et al., 2021). The existence of the State Administrative Court in Indonesia still requires strengthening both institutionally and functionally to develop into a justice provider that upholds fairness for all in resolving disputes comprehensively. Weaknesses in implementing State Administrative Court decisions arise partly due to the absence of a specific institution with authority to enforce execution, unlike in criminal courts. The inability to execute TUN decisions with permanent legal force is often caused by factors such as changes in the position of officials subject to execution due to personnel transfers. Additionally, if a decision is non-executable, the plaintiff's rights as determined by the verdict become meaningless.

An example of a non-executable decision is Jakarta State Administrative Court Decision No. 600/G/SPPU/2023/PTUN.JKT. This involved the General Elections Commission (KPU) of Indonesia and its West Sumatra branch during the nomination stage for a Regional Representative Council (DPD) candidate from West Sumatra, Irman Gusman. The issue stemmed from Irman Gusman's previous conviction: on February 20, 2017, Jakarta's Corruption Court sentenced him to 4 years and 6 months in prison and fined him IDR 200 million (subsidiary 3 months imprisonment), while revoking his political rights for three years post-sentence. The High Court increased his sentence to five years, and this was upheld by the Supreme Court. Irman Gusman was granted parole in September 2020 after serving approximately four years at Sukamiskin Prison in Bandung.

In the 2024 elections, Irman Gusman registered as a candidate for the Regional Representative Council (DPD) for the West Sumatra electoral district, with the following process:

a. During the submission of the minimum support requirements for candidacy, Irman Gusman was declared to have met the requirements by the KPU of West Sumatra and was declared to have passed administrative and factual verification, and therefore his name was included in the Provisional Candidate List (DCS).

b. In the next stage, the KPU RI, noting the Constitutional Court (MK) Decision No. 12/PUU-XII/2023 stating that former convicts who have had their political rights revoked are not exempt from the obligation to wait for a period of 5 years, removed Irman Gusman from the Permanent Candidate List (DCT). This removal was based on the KPU RI's official letter to the KPU of West Sumatra to refer to the Supreme Court Decision No. 28 P/HUM/2023 dated September 29, 2023, which stated in essence that Article 18 paragraph (2) of KPU Regulation No. 11 of 2023 was in contradiction with higher laws and therefore had no binding legal force.

c. In Irman Gusman's subsequent lawsuit, the Jakarta State Administrative Court (PTUN) ruled on December 19, 2023, granting Irman Gusman's claim and ordering the KPU RI to annul the DCT and issue a new decision that included Irman Gusman as a DPD Candidate for the West Sumatra Electoral District.

d. However, the KPU RI did not immediately implement the PTUN decision, so Irman Gusman brought the case to the Constitutional Court (MK) RI, which on June 10, 2024, ordered the KPU RI to hold a Revote (PSU) in the West Sumatra Electoral District, including Irman Gusman.

Subsequently, the Constitutional Court (MK) granted Irman Gusman's request regarding the deletion of his name in the DCT member of the DPD RI for the West Sumatra region and ordered the KPU to conduct a revote for the DPD of West Sumatra.

The KPU officially announced the results of the revote for DPD RI in West Sumatra, and Irman Gusman was declared to have passed as a DPD for West Sumatra, placing fourth with 176,987 votes.

The issues in this research are formulated as follows: (1) What is the legal binding force of a State Administrative Court decision that is qualified as non-executable?; (2) How is the execution of the State Administrative Court decision Number: 600/G/SPPU/2023/PTUN.JKT, which is considered non-executable, carried out?.

## 2. Method

This research is qualified as normative legal research (Sumitro, 1990), employing a juridical-normative method that focuses on the use of secondary data in the form of legislation, legal theories, and opinions from leading legal experts (Rasjidi, 2005).

The first research question, "What is the legal binding force of a State Administrative Court decision that is qualified as non-executable?", is targeted to be answered through normative research by examining relevant documents based on secondary data in the form of prevailing statutory regulations. This involves reviewing theories, concepts, and regulations related to the research. The statute approach involves studying relevant laws and regulations, including their historical background and philosophical underpinnings.

The second research question, "How is the execution of the State Administrative Court decision Number: 600/G/SPPU/2023/PTUN.JKT, which is considered non-executable, carried out?", and its answer is expected to be obtained from primary and secondary data sources issued by the Jakarta State Administrative Court and the General Elections Commission (KPU) of the Republic of Indonesia, as well as previous research results.

The data will then be analyzed qualitatively. Normative legal research uses qualitative analysis to explain the data with statements rather than numbers.

Based on the provided context, here's a summary of the data collection and analysis methods:

- a. Data Collection (Inventory): The research primarily gathers (inventories) narrative data.
- b. Synchronization and Problem Solving: The collected data is synchronized with the results of previous research, aiming to address problems such as:
  - Research in the field of electoral law enforcement.
  - Interviews.
- c. Secondary Data: Secondary data is gathered through library research. This involves examining documents and various secondary sources such as legislation, court decisions, legal theories, and scholarly opinions.

The research employs qualitative analysis to explain the data with statements rather than numerical figures.

## 3. Results and Discussion

1. Here's a breakdown of the binding legal force of State Administrative Court (TUN) decisions:

Definition of a Court Decision

Linguistically, Putusun in the Great Dictionary of Indonesian is given the meaning of "the result of deciding", which in English is called decision or verdict and berlisng or verdict in Dutch. According to the Term, a Decision is a statement of the judge that is stated in written form and pronounced by the Judge in a hearing open to the public as a result of the examination of the lawsuit (contetious)(Yunus, 2020).

Regarding the meaning of the decision, legal experts put forward their respective opinions to try to define what is called the court decision, and what is meant by the judge's decision is

interpreted as a statement that the judge as a state official authorized for it, is pronounced in court and aims to end or resolve a case or problem between the parties (Mertokusumo, 1984)

In simple terms, a court decision is the result of a judge's ruling, written down and announced in a public hearing after examining a case. Legal experts define a court's decision as a statement made by a judge, in their official capacity, during a court session, aimed at resolving a dispute between parties. These definitions, while varied, share the understanding that a decision represents the resolution of a dispute following a judicial process (Nursidi, 2010).

### Three Types of Binding Legal Force

There are generally three types of binding legal force in court decisions:

a. Binding Force: This applies to a final and unappealable court decision (*res judicata pro veritate habetur*). A State Administrative Court decision that has become legally binding has "erga omnes" binding force, meaning it applies to and binds everyone, not just the disputing parties.

b. Executory Force: A legally binding court decision is generally enforceable and has executory power.

c. Force of Evidence: The evidentiary power of a court decision is equivalent to an authentic deed, so its truthfulness is always recognized as long as it has permanent legal force (Tjandra, 2010).

### Classifications of Non-Executable Decisions

In State Administrative Court cases, some decisions are classified as non-executable:

a. Declaratory Decisions: These decisions declare a regional government's decision invalid but do not order a new decision to be issued.

b. Decisions Lacking Executory Orders: These relate to the dismissal of civil servants but do not include an order to reinstate them to their former positions.

c. Decisions Without Permanent Legal Force: These include first-level TUN court decisions appealed by the government or appellate-level decisions challenged by the government through a cassation appeal.

d. Non-Executable Decisions: These involve the dismissal of a person from a specific position, but that position has since been filled by someone else.

e. Decisions Requiring Further Administrative Action: These concern permits, where the government (region) does not automatically issue a new permit, especially if permit requirements have changed. The implementation of TUN decisions often depends on the government's political will, such as using further efforts like a warning decision (*dwangsom*) or intervention from a superior official.

Based on the provided information, here are scenarios where a State Administrative Court (PTUN) decision related to election stages might be difficult to execute:

a. Decision to Annul an Election Stage After Completion: If a decision to cancel a particular stage of the election is issued after all stages have been completed, implementing the decision becomes problematic.

b. Decision Not Altering Election Winner Despite Flaws in Earlier Stages: Even if issues arise during candidate registration (e.g., related to administrative or factual verification), a PTUN decision might not change the final election outcome or the KPU's determination of the winners, especially if the election has progressed to the voting and counting stages.

c. Decision Lacking Executory Orders: A decision declaring a ruling by the Election Supervisory Body (Bawaslu) invalid might not include explicit instructions for the KPU to take specific legal actions.



d. Decision Contradicting Election Laws: A PTUN decision might conflict with election laws, such as those concerning vote tally results, which fall under the exclusive jurisdiction of the Constitutional Court.

e. Decision Without Permanent Legal Force: If a legal challenge is still in progress while election stages have already concluded, the decision might lack permanent legal force.

#### Enforcement of Binding Legal Decisions

The implementation or execution of a legally binding decision adheres to the regulations (norms) governing PTUN decision execution. These norms serve a dual function:

- a. They act as guidelines for issuing further policies in government administration.
- b. They provide benchmarks for considering decisions that must be implemented.

Law is a dynamic system of norms, and legal norms can be created or abolished by authorized bodies or authorities. Therefore, legal norms created by competent authorities have a coercive power because many impose sanctions on those who violate them (Nursidi, 2007).

In principle, every court decision, including PTUN decisions, must be obeyed by all interested parties, especially those involved in the case that is the object of the state administrative dispute. It must also be obeyed by parties that are not directly interested because the object of the state administrative dispute is a decision of a Government Official.

The PTUN Jakarta's decision in the Irman Gusman case is "erga omnes," meaning it is binding and must be obeyed by all citizens. The decision should be implemented directly without requiring further regulation from authorized officials unless otherwise specified, such as the KPU changing the timing of stages. PTUN decisions have "erga omnes" binding force, which is in line with the character of state administrative public law (Tjandra, 2005).

Hans Kelsen's view on the position of court decisions, as explained by Otje Salman, states that law is hierarchical, meaning it does not conflict with provisions of a higher degree. The order is as follows: the lowest is the decision of the court, above it are laws and customs, above it is the constitution, and the highest is the "grundnorm" (Salman, 1987). In state administrative court, the Defendant is the State Administrative Body/Official or Government Official (Regional). Therefore, if a TUN decision grants the claim, declaring a contested decision null and void, it should include a dictum (amar putusan) ordering the revocation of that decision and simultaneously ordering the issuance of a new decision in the interest of the plaintiff. This type of decision order is what Hans Kelsen referred to as a legal norm that must be obeyed by individuals and organizations alike.

Legal experts believe that as long as a judge's decision has not been overturned or is not void by law, the decision remains legally binding. If the State Administrative Official (Pejabat TUN), in this case, the General Elections Commission (KPU) of the Republic of Indonesia Cq (on behalf of) the KPU of West Sumatra, still does not implement the court's decision, it is part of an effort to defy judicial power and can cause legal uncertainty for those seeking justice in State Administrative disputes.

The force of law is absolute; as long as there is no legal recourse, a decision becomes inkraht (final and binding), and an inkraht decision must be understood as a decision that has absolute power and must be implemented. The court's decision to be implemented is a court decision that has obtained permanent legal force (inkraht van gewijsde) (Supandi, 2005).

The court is presented as the final recourse for justice seekers, and the procedural substance is that they submit the object of the dispute to the court and before the panel of judges, hoping that the fairest possible justice can be obtained completely, meaning that it has a definite legal force. Moreover, the main substance is that if the court decides to grant the lawsuit, the

implementation (execution) of the decision becomes the ultimate goal, meaning that justice has the ultimate goal of restoring all rights that have been harmed by other parties. That restoration will be achieved if the decision can be implemented.

## 2. Non-Executable Decisions in the 2024 Election

The implementation of State Administrative Court (TUN) decisions that include execution procedures was originally regulated under Article 116 of Law Number 5 of 1986, amended by Law Number 9 of 2004, and later amended by Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 on State Administrative Court.

Based on its content, Article 116 outlines three types of execution: automatic execution, hierarchical execution, and coercive execution, which can be explained as follows:

### a. Automatic Execution

Automatic execution is described in Article 116 paragraphs (1) and (2) of Law Number 5 of 1986 on State Administrative Court (State Gazette of the Republic of Indonesia Year 1986 Number 77, Supplement to the State Gazette Number 3344), and it remains unchanged by Law Numbers 9 of 2004 and 51 of 2009. Based on the order from the Chief Judge handling the case at the first level, a copy of the court decision that has obtained permanent legal force must be sent to the parties via registered mail by the court clerk within a maximum period of 14 working days.

Decisions requiring government officials or bodies to revoke a State Administrative Decree (KTUN) essentially require implementation. Article 116 paragraph (2) of Law Number 5 of 1986 and Law Number 9 of 2004 provide for automatic resolution: if within four months after the legally binding decision is sent to the defendant and the defendant does not revoke the KTUN declared invalid, then the KTUN no longer holds legal force.

This automatic resolution was maintained by Law Number 51 of 2009; however, the four-month period was reduced to 60 working days. If within this time frame after receiving the decision, the defendant does not revoke the disputed KTUN, then the object in dispute loses its legal force.

Based on the search results, here's a breakdown of the administrative procedures and hierarchical execution related to State Administrative Court (PTUN) decisions:

Administrative Procedures by the Chief Judge (referencing PERATUN):

The search results do not contain the exact steps.

### b. Hierarchical Execution (Pasal 116 ayat (3) - (5) UU Nomor 5 Tahun 1986):

Note: According to the search results, the implementation of hierarchical execution may no longer be applicable since the enactment of Law Number 9 of 2004. However, here's how it functions:

1. The Defendant is required to revoke the KTUN.
2. The Defendant is required to issue a new KTUN or issue a KTUN in the event of a fictitious negative object of the lawsuit.
3. After three months, the obligation has not been carried out.
4. The Plaintiff submits a request to the chairman of the court to order the Defendant to implement the court decision. If the Defendant does not implement it based on Article 116 paragraph (4) of Law Number 5 of 1986.
5. The Chairman of the Court submits the matter to his superior agency according to the hierarchy of positions. Within two months after receiving notification from the Chairman of the Court, the superior agency must have ordered the Defendant official to implement the court decision as stipulated in Article 116 paragraph (5).

6. If the relevant superior agency does not comply, the Chairman of the Court submits the matter to the President as the holder of the highest government authority to order the official in question to implement the court decision Article 116 paragraph (6).

The element of hierarchical execution with certain considerations reappears in Article 116 paragraph (6) of Law Number 51 of 2009. The Chairman of the Court is required to submit the matter of the official's (defendant's) or execution applicant's disobedience to the President as the holder of the highest government authority to order the official to implement the court decision<sup>4</sup>. In addition, it is also submitted to the people's representative institution to carry out its supervisory function.

c. Following the introduction of the hierarchical execution mechanism, the success rate of implementing decisions within the TUN judiciary remains relatively low, at 30 to 40 percent. Amendments to Article 116 of Law Number 5 of 1986, with paragraphs (3) through (6) of Law Number 51 of 2009, shifted the mechanism for implementing TUN Court Decisions from hierarchical execution to coercive measures. This optional mechanism of coercive measures is expected to significantly shift the effectiveness of TUN Court decisions in the future. This change is an attempt to correct the weakness of the judiciary's power regarding decisions that lack the ability to pressure officials or government bodies to implement decisions.

Article 116 paragraph (3) of Law Number 9 of 2004 states that if the defendant is required to revoke the State Administrative Decree (KTUN) and issue a new KTUN, or issue a KTUN in the case of a fictitious negative object of the lawsuit, and after three months since the decision was conveyed to the defendant, and within 90 working days of receipt, that obligation is not fulfilled, the plaintiff submits a request to the Chairman of the Court that tried the case at the first level to order the defendant to implement the court decision.

The changes in Law Number 51 of 2009 do not fundamentally alter this method of coercive measures. If, after the Chairman of the Court orders the implementation of the decision (Article 116 paragraphs (4) and (5) of Law Number 9 of 2004 and Law Number 51 of 2009), the defendant is unwilling to implement it, the official concerned will be subject to coercive measures in the form of payment of a sum of penalty money and/or administrative sanctions, and the official who does not implement the court decision as intended will be announced in the local print media by the Registrar since the provisions were not fulfilled.

In summary, the change in the pattern of execution in the State Administrative Court can be seen in the following table (Dani, 2015)

| Law No. 5 of 1986  | Law No. 9 of 2004  | Law No. 51 of 2009  |
|--|--|---|
| <ol style="list-style-type: none"><li>1. if within 4 (four) months after receiving the permanent legal judgment the Defendant does not carry out its obligations, then the disputed Decision no longer has legal force.</li><li>2. The Court's efforts emphasized the Defendant to implement the Decision by</li></ol> | <ol style="list-style-type: none"><li>1. if within 4 (four) months after receiving the decision with permanent legal force, the Defendant does not carry out its obligations, then the disputed Decision no longer has legal force.</li><li>2. The Court's efforts to pressure the Defendant to enforce the judgment through coercive efforts in the</li></ol> | <ol style="list-style-type: none"><li>1. If within 60 (sixty) days after receiving the decision with permanent legal force, the Defendant does not carry out its obligations, then the disputed Decision no longer has legal force.</li><li>2. The Court's efforts to pressure the Defendant to enforce the verdict through coercive efforts in the form of forced payment of money</li></ol> |



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| submitting it to the superior agency (tiered execution).<br><br>The last effort is for the Chairman of the Court to submit to the President. | form of forced payment of money and the imposition of administrative sanctions.<br><br>a last resort with an announcement in the mass media. | and the imposition of administrative sanctions.<br><br>The last effort is that in addition to announcements in the mass media, it also submits to the President as the head of the highest government and the House of Representatives as a supervisory function. |
|--|--|---|

Regarding the execution of court decisions, in essence, from various types of executions in reality, there are decisions that have been *inkracht* but the execution cannot be carried out. Umar Dani notes that in reality, despite various execution methods, some decisions, even when legally binding (*inkracht*), cannot be executed. Several factors contribute to the non-executable nature of State Administrative Court decisions:

1. Impact of Changing Circumstances: Factors contributing to these changing circumstances include the ineffectiveness of suspension institutions, expedited proceedings not being followed through the appeal and cassation levels, and the defendant using legal remedies.
2. Factual Actions Already Taken: This refers to situations where actions have been carried out that make the execution of the original court order impossible or irrelevant.
3. Lack of Synchronization Between Procedural and Substantive Law: This refers to inconsistencies or conflicts between the rules governing how a case is heard and the actual legal principles being applied.

Beyond these technical execution factors, a court order may be impossible to execute if the defendant (the losing party) cannot fulfill the obligations assigned to them. Article 117 of Law No. 5 of 1986 addresses this situation, outlining the following steps:

The defendant informs the plaintiff and the presiding judge that they cannot comply with the ruling.

Negotiations are held to reach an agreement between both parties regarding the desired amount of compensation. If no agreement is reached, the presiding judge determines the compensation amount. If either party disagrees with the compensation amount, they can re-apply for a compensation amount determination by the Supreme Court.

There were several PTUN decisions between 2020 and 2024 whose executions could not be carried out (non-executable)<sup>8</sup>. (The actual data is not available in the provided search results)

| Year | Number of Execution Applications for Revocation Non Executable | Information  |
|------|--|--|
| 2020 | 1  | Example<br>PTUN Decision Number: 600/G/SPPU/2023/PTUN. JKT as a case that is relevant to the subject of discussion in this study |
| 2021 | 1  |  |
| 2022 | 5  |  |
| 2023 | 5  |  |
| 2024 | 2  |  |

In the case of Irman Gusman on February 20, 2017, the Jakarta Corruption Court sentenced him to 4 years and 6 months in prison and a fine of 200 million rupiah in addition to 3 months

of imprisonment, and his political rights were revoked to be elected to public office for 3 years after serving his sentence. Furthermore, in the Appeal decision, the Jakarta High Court increased the sentence to 5 years in prison, and in the Supreme Court Cassation decision, it affirmed the decision of PT DKI Jakarta. September 2020 received parole after serving about 4 years of execution at Sukamiskin Prison Bandung.

In the 2024 election, Irman Gusman registered as a candidate for DPD member for the West Sumatra Constituency with the following process :

e. In the submission of minimum support for the candidacy requirements, Irman Gusman was declared qualified by the West Sumatra KPU and declared to have passed administrative and factual verification, and therefore his name was listed in the DCS;

f. At the next stage, the KPU RI paid attention to the Decision of the Constitutional Court of the Republic of Indonesia Number 12/PUU-XII/2023 that former convicts who were subject to the revocation of political rights were not immune from the obligation to wait for a period of 5 years, crossed out Irman Gusman from the DCT, and the crossing was based on the Official Letter of the KPU RI to the West Sumatra KPU to be guided by the Supreme Court's decision Number 28 P/HUMN/2023 dated September 29, 2023, which states that basically Article 18 paragraph (2) of PKPU Number 11 of 2023 is declared contrary to higher laws and regulations and therefore does not have binding legal force.

g. Upon Irman Gusman's lawsuit, the Jakarta PTUN decided on December 19, 2023 with the Jakarta PTUN ruling Number: 600/G/SPPU/2023/PTUN. JKT., stated "Granting the Plaintiff's lawsuit in its entirety". However, the KPU RI as the defendant did not implement the Jakarta PTUN decision. The Coordinator of the Legal Division of the KPU RI, Mochamad Afifudin stated that "for the sake of the constitution, the PTUN decision cannot be implemented (non-executable) because it is contrary to the constitution". The KPU took this stance even though the PTUN is the court authorized to decide election disputes, based on Law Number 7 of 2017 concerning Elections (Election Law);

h. Based on the KPU's attitude, the Jakarta PTUN issued a warrant to the KPU to include Irman Gusman's name in the Permanent Candidate List (DCT) for the election of DPD RI members in the 2024 election. In the Letter of Determination of the Execution of the PTUN decision number 600/G/SPPU/2023/PTUN. JKT. dated January 8, 2024, the PTUN ordered the KPU to implement all the contents of the decision;

i. The Execution Determination Letter states, "As attached to this letter, so that you fulfill and implement the contents of this Determination in accordance with Article 115, Article 116, Article 119 of Law No. 51 of 2009 concerning the State Administrative Court and Article 66 paragraph (5), Article 64 paragraph (5) of Law Number 30 of 2014 concerning Government Administration. The PTUN also asked the KPU to "report the results of the implementation of this Determination of Execution to us" and that "The delivery of a copy of this Determination is carried out by registered letter";

j. However, the KPU did not follow up on the Jakarta PTUN decision until the deadline for revocation and issuance of the decision as ordered in the ruling. In fact, the Election Supervisory Agency (Bawaslu) of the Republic of Indonesia has also asked the KPU to comply with the PTUN decision. The request was conveyed by Bawaslu in letter Number 1049/PS.00.00/K1/12/2023 on December 21, 2023. said "That it is important for Bawaslu to emphasize that the KPU follows up on the Decision of the Jakarta State Administrative Court (PTUN) in Case Number 600/G/SPPU/2023/PTUN. JKT in accordance with the amar of the a quo decision and laws and regulations", In the letter, Bawaslu also reminded, in accordance with the provisions of Article 471 paragraph (8) of the Election Law, the KPU is obliged to follow up on the decision of the State Administrative Court no later than 3 (three) working days;

k. The KPU's attitude of not executing the PTUN decision causes legal uncertainty for election participants and clearly violates the Election Law. In fact, the KPU as a state institution should provide an example in obeying court decisions, both general and PTUN as a form of obedience to the constitution;

l. At the next stage, the KPU RI paid attention to the Decision of the Constitutional Court of the Republic of Indonesia Number 12/PUU-XII/2023 that former convicts who were subject to the revocation of political rights were not immune from the obligation to wait for a period of 5 years, crossed out Irman Gusman from the DCT, and the crossing was based on the Official Letter of the KPU RI to the West Sumatra KPU to be guided by the Supreme Court's decision Number 28 P/HUMN/2023 dated September 29, 2023, which states that basically Article 18 paragraph (2) of PKPU Number 11 of 2023 is declared contrary to higher laws and regulations and therefore does not have binding legal force.

m. In Irman Gusman's lawsuit, the Jakarta PTUN decided on December 19, 2023 by approving Irman Gusman's lawsuit and ordering the KPU RI to cancel the DCT and issue a new decision which stipulated Irman Gusman as a Candidate for Member of the West Sumatra Dapil DPD;

n. Furthermore, on the decision of the PTUN, the KPU RI did not immediately implement it, so Irman Gusman brought the case to the Constitutional Court of the Republic of Indonesia and on June 10, 2024, which in its decision ordered the KPU RI to hold the West Sumatra Dapil PSU with Irman Gusman participating;

o. On July 13, 2024, the PSU was held and as a result, Irman Gusman obtained 176,987 votes. vote and put the person concerned in the fourth position and thus Irman has the right to become a DPD Candidate representing West Sumatra;

Regarding the above case, it shows that the KPU RI cq KPU West Sumatra is inconsistent, on the one hand it does not implement the Jakarta PTUN decision but on the other hand implements the interlocutory decision of the Constitutional Court of the Republic of Indonesia. to carry out the PSU by including Irman Gusman, but because the person concerned has been crossed out in the DCT of the Candidate Member of the West Sumatra Dapil DPD, Irman Gusman was declared as an Elected Member of the DPD. This incident shows the complexity of the interests in the legal process that is inconsistent with the administration of the electoral system in Indonesia, especially related to the discourse on the status of former prisoners (corruption) who intend to serve again in public office.

#### 4. Conclusion

In reality, there are State Administrative Court (PTUN) decisions where the execution can be carried out perfectly (executable), and decisions where the execution cannot be carried out (non-executable). Even though the decision cannot be carried out (non-executable), the binding legal force on the PTUN judge's decision remains attached.

PTUN Jakarta Decision Number: 600/G/SPPU/2023/PTUN.JKT could not be implemented and was therefore qualified as non-executable, considering that the process of Determining the Permanent Candidate List (DCT) by the KPU RI Cq KPU Province of West Sumatra had been exceeded.

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