The Action of Public Law by Agency or Officer State Administration that Violates the Law:
State administrative law perspective

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Abstract—Agency or Officer in the state administration has broad authority in conducting the affairs of government (executive). With this broad authority tend to abuse that caused harm and injustice in the society, therefore there must be other institutions that control it. Based on the theory of triad politics of the executive is politically controlled by the legislative and juridical institutions controlled by the judiciary, because the state administration officials running the executive functions that control the judiciary is legally the state administrative court. Judicial control by the state administrative court is currently under Law Number 51 Year 2009 (second amendment) and Law Number 9 Year 2004 (first change) is revising the Law Number 5 Year 1986 about the administrative court only in the case of administrative provisions (beschikking) issued by the agency or official of the state administration alone, whereas in absolute philosophical competence the state administrative court is resolving state administrative disputes in a broad sense. Therefore, this study uses a type of normative research, where the data is obtained comes from the literature.

Keywords—Action of Public Law; official; state administrative law

I. INTRODUCTION

Talking about the meaning of the work of public law by a state administrative agency or official who violates the law in terms of state administrative law, the writer tries to begin to parse what the meaning of using the analysis knife is the theoretic of the meaning itself. The meaning according to W.J.S. Poerwadarminta is commensurate with the word meaning and purpose [1]. The meaning itself has the meaning contained in the word or also figuratively from the word, benefit, or interest (WJS Poerwadarminta, administrative official who violates the law, then the meaning here is the same by trying to trace the meaning and purpose of public legal actions by a state administration body or official who violates the law itself with the theory in state administrative law. After describing the meaning of the word meaning, it is also necessary to describe the definition of public legal deeds by the agency or administrative officials who violate the law. Doing public law 2012: 60). The intent as intended in this case is with the desired, purpose, certain intentions, something contained in the sentence [1].

The connection with the problem that will be reviewed by the writer is that which is related to the meaning of public legal actions by a body or a public legal act carried out by a state administration body or official. Theoretically, public legal actions have two meanings, namely one-sided (vertical) public legal actions and two-sided public legal actions (horizontal) according to administrative law - is a legal act by the state. The act of the public law of administrative officials to make this one-sided theoretically known so that a statutory provision with the decision of the state administration, has concrete, practical contents, according to Prajudi Atmosudirdjo himself, and can be applied according to the conditions of decisions (beslissingen) time and place, for example: in the field of the agency or traffic administration officer (installation from Rambambegara consists of: determination of the last sign traffic, location (beschikking), plan, parking norms, and recommendations for using concrete normgeving, and motorcycle riders); fourth, pseudo-wetgeving or pseudo-wet legislation is the creation of policy regulations (beleids rules by regel officials) [2], the authorized administration and according to Prajudi Atmosudirdjo itself were actually intended as garrisons of these four forms of decision [2]; guideline (richtlijnen) for the first implementation, this stipulation is a policy for making law that unilaterally enforces a statutory provision-(eenzijdig), has the character of a state administration law, but published means the realization of the provisions widely, and the opinion is the same as the individual; second, the plan includes the opinion of S.F. Marbun, which is one form of legal action, formulates unilateral administrative decisions in the field of State Administrative Law as follows (SF Marbun, who created legal relations (which 2009-): Decision is binding) between the Ruler and the one-sided public law making that is Community, then the plan is carried out by a means of government (in a set of narrow-meaning actions) based on an integrated power, with the aim of creating or special authority with an orderly condition when the purpose of the changes in these actions has finished legal relations.

Furthermore, he realized, for example: The Tata Plan also explained that the definition of Forest The definition includes in it the notion of decisions in concrete-individual meaning (beschikking) and decisions in meaning or regeling. In this general meaning, abstract is also included in the plan, norm
normalization, and *pseudoweteweving* or policy regulations (*beleids regel*). As with the act of two-sided public law, where the actions of state administration officials are thus still there being a cross opinion about its existence. Even in its development, there are those who argue that in addition to legal actions of one and two facets, there are also *meerzijdig* public legal acts, for example: government based on public law insofar as the act is carried out by the government apparatus as a ruler is a one-sided legal action, because the position between the ruler and the controlled is not parallel, but rather a hierarchical relationship. Whereas legal actions based on public law carried out by Government officials as organs of the Government as legal entities (*bestuurorgaan*) may be of a dual or one-person nature. Actually, in this case the deed is the specialty of civil law in the context of the enforcement of state administrative law, although there are several state administrative judges who make the legal considerations the cancellation of the state administrative decision because it contradicts one of the principles of *Pancasila*. Thus, the author agrees because *Pancasila* is the Great. At the time of the interview with the *grundnorm* Law No. 5 of 1986, the need for law enforcement 53 paragraph (2) which is essentially state administration in this context, stating that the TUN Decree can be declared null and void if: (a) it is contrary to the laws and regulations; (b) *deteromunent de pouvoir*; (c) *willekeur*, but the authors argue this is not enough to be interpreted as such because it is felt to be too narrow. Based on the author's opinion because it was as expressed by I Gde Pantja Astawa [3], that as a consequence of the rapidly increasing development in various sectors / fields of life, the government in this case legal entities are very abstract or many or state administration officials define them differently, but the authors hold that the state administrative judges are free to interpret the meaning of violations of the law itself, because they are increasingly active and intensely interfering in various aspects of people's lives.

Therefore, state administrative law plays a very dominant and important role meaning as the basis or basis for the actions of the state administration body or officials in order to realize the duty (BPN), but on the other hand the object of the same dispute, previously there has been a verdict from the district court between the A and the B concerning the holding of public services, ownership and won by A, on the basis of these factual conditions, to prevent excesses from state administrative actions, the role of state administrative law is needed to function normatively as a regulator and corridor when the state administration reacts to realize authority - legal authority by the agency or administrative official is owned [4]. As the case in practice, many state administration judges still use a rigid mindset in implementing legislation. In such circumstances the implementation of state administrative law enforcement becomes confusing and results in the objectives of justice, legal certainty, and benefits, which are difficult to realize. Lots of dispute resolution related to the competency of judicial institutions is contradictory when giving decisions. For example, a land dispute, the A as the Plaintiff filed a lawsuit PTUN to cancel the land certificate issued by the Head of the National Land Agency 446 but the Defendant (Head of BPN) refused to cancel the certificate in name B. Problems in practice, judge State administration rarely dares to make a legal consideration by linking a decision from a district court as the basis of a decision that there has been an act of violating the state's trajectory, which in turn even PTUN overturns the verdict of the district court or the Supreme Court which has been *in kracht van gewijzade*. This happens because the mindset and insight of judges in the PTUN are still fragmented in the trial between civil law and state administrative law, so that they do not see legal relations especially regarding the meaning of disadvantaged interests between the two even carrying out a disparity in settlement dispute over the case.

A. Problems

From the background, the writer explains the problem:

- What are the various types of government in state administrative law?
- What is the meaning of public legal actions by state officers or officers violating the law written?

II. METHOD

This study was conducted to discover simultaneously the ideology of The Action of Public Law by Agency or Officer State Administration that Violates the Law: State Administrative Law Perspective. This study was conducted by normative research.

III. RESULT AND DISCUSSION

A. Various Types of Government in State Administrative Law

Kinds of Government Actions in State Administrative Law:

- Government actions in the field of legislation (*regeling*);
- Government actions in the issuance of decisions (*beschikking*);
- Government actions in the field of civilization (*materiele daad*).

B. The Meaning of Public Legal Actions by State Officers or Officers Violating the Law Written

The Meaning of Public Law Actions by State Administration Offices or Offenses that Violate the Unwritten Law Other meanings of the notion of violations of this law, the authors argue that violations of the principles or norms of public law in general and customary law can also be used as a yardstick of understanding illegal acts by a state administration body or official. Indeed, it is still too abstract and subtle to make the principle or norms of public law in general as a benchmark for violating the law by a state administration body or official. Apart from the fact that there is no comprehensive agreement on the meaning of the principle or norms of public law itself, especially in terms of law enforcement in the state administrative, it is also difficult to implement in practice because to measure when prioritizing justice rather than legal certainty or vice versa. Criminal and civil, so there is a possibility that there is a possibility of merging with state administrative disputes.
The author also needs to point out here, that the notion of violating the law by a state administration body or official is not what is meant in Article 7A and 7B paragraph (1) of the Constitution in said provision is said that the President (as the Head of Government or Officer is deemed to have committing a violation of law when committing treason against the state, corruption, bribery, other serious crimes or disgraceful acts It is seen that the violation of the law in question is in the form of a criminal act, even though there is a term of misconduct which is still general in nature, violating the law by the President according to Article 7A and 7B paragraph (1) of the 1945 Constitution in question, if it is associated with illegal acts by the state administration agency or author I reviewed in this paper, the author argues that if the President as the highest state administration officer does not san court to find out the purpose of the principle underlying the existence of a legal norm and this public legal norm, the author [5]. Departing from the notion of principles and norms themselves.

According to W.J.S. Poerwadarminta, the notion of principle is:

- Base, foundation; for example: stones that are good for the principle of the house;
- Something truth that becomes the subject or foundation of thought (opinion and so on); for example regarding this opinion, Mahadi criticized him by stating that as if each legal norm could be returned to a principle, even though in practice there were legal norms that could not be traced to how the underlying principle sounded, such as: legal norms: contrary to principle - the positive legal system in the field of traffic, which is criminal, in principle, I agree with ordering public road users to overtake you;
- The ideals that form the basis (associations, countries and so on); for example: discussing the principles and objectives of the union [6].

Moving on from that principle, Sri Soemantri argues that the meaning of number two is more appropriate in relation to law, because thus truth will be found which is the basis or foundation of thought or opinion, for example civil law, criminal law, constitutional law and state administrative law or governance law (Sri Soemantri, use the left side of the road. Thus this legal norm is difficult to find its principle, but if it has become a legal norm, the legal norm itself serves as the principle. Different views with that opinion, Jazim Hamidi expressed his opinion that the legal principle is the initial form of normative emission from a philosophy of life and at the same time is the ethical values that live in community relations [7]. This opinion rests on the opinion of Moh Koesnoe who defines principle, as the initial form of normative emanation [8].

Another formulation of the principle itself, according to C.W. Paton is: A principle of broad reason, which lies at the base of a rule of law (meaning: from a philosophy of life as an instruction to how to look and henceforth should handle a sphere of issues of principle) is a living world of mind. When the scope of the problem is broadly formulated and the problem is legal, the principle is called the legal principle (Jazim Hamidi, is a rule [8]. Based on a principle and rules Jazim Hamidi further concluded that the legal principle is an abstraction of legal norms, whereas legal norms are a concretization of legal principles in the form of concrete legal regulations (articles) [8]. So, it can be said that the legal principle is basically unwritten, when the principle is formed derived from the principle in a form of sentence in such a way that the rules have meaning for humans in carrying out their actions. In other words, the norm is a formula to be used by humans in their behavior, besides that the norm can also be called a rule (Mahadi [5]; comparative writing in a regulation, it is already Arief Sidharta [9]). become a legal norm. More simply, Ateng Syafrudin distinguishes between these principles and norms as follows [10].

Principle is;
- General and abstract rationale;
- Ideas or concepts;
- Not having norm sanctions is:
  - concrete rules;
  - the description of the idea;
  - has sanctions. The definition of norms according to W.J.S. Poerwadarminta is a measure (to determine something) [6].

Seen here the meaning of the norm is very summarized. It was different from the opinion of Hommes who formulated the definition of norms by: de op menselijke vormgeving aan beginselen rustende recording, marriage, etc; (2) Sanksiregels, die toepasselijk zijn op vrije, sanctions for violations of normamenselijke gedragingen and so on.

The purpose of this formula, norms The characteristics of legal norms compared to other norms according to Rosjadi Ranggawidjaja are [11]: (1) The existence of external coercion in the form of a legal threat to violators (usually in the form of physical sanctions that can be imposed by state instruments); (2) is general in nature, which is applicable to anyone.

According to Rosjadi Ranggawidjaja also, this legal norm is needed because of [11]: (1) Not all interests or rules have been protected or regulated by the three norms (religion, decency and politeness). For example, ethical norms do not regulate things about salary, traffic, taxes, ethical norms are psychic, very abstract; while sanctions against violations of legal norms are physical, and real (concrete); (3) His forced nature is very clear and can be administered. The connection of principles and norms with unlawful acts by a state administration body or official is a violation of the law in question violating the principles or norms of public law. The definition of the principles of focus is on the character and nature of public law according to the author is the principle of public law in general. As the author understands, in public law there are several principles that are often raised by legal experts, including general principles of good governance (algemene beginselen van behoorlijk bestuur) in administrative law and good faith, awareness ethical and national law values in public law in general. AAUPB are unwritten legal principles that must be considered by the state administration body or officials.
Because this AAUPB is a legal principle, then AAUPB is not an ethical tendency and not also a moral tendency for administrative officials who run the government. So said because according to S.F. Marbun, ethics as the morality of the focus is law, while the moral of the state administration is the nature of the state administration officials individually which is not contained in legal regulations.

That is, it is only aimed at the inner attitude of state administration officials to have noble character, have shame, guilt and others. The sanctions are only internal by relying on the moral values of the state administration officials. In other words, the AAUPB is affirmed as part of the law because the direction is directed at the attitude of the birth of the state administration body or officials accompanied by the burden of coercive rights and obligations and strict and concrete sanctions for those who carry out the legal actions.

IV. CONCLUSION

Based on the description both theoretically and juridically above, in the opinion of the author, the meaning of unlawful acts by the state administration body or officials in state administrative law is a one-sided (vertical) public legal action and two-sided (horizontal) public legal actions carried out by the agency State administration officials violate the law based on the decisions of other judicial institutions PTUN that have been in kracht van gevijsde, jurisprudence, principles of public law both general principles of good governance or general principles of state administration or the principles of national law, customary law, and human rights. Thus for the orderly technical and administrative justice and integration, the effectiveness and efficiency of the enforcement of state administrative law in the future, it is necessary to revise Law Number 5 Year 1986 Law Number 9 of 2004 and Law Number 51 of 2009 concerning Administrative Court, especially regarding authority PTUN in accordance with its philosophy in resolving state administrative disputes, namely by making "public legal actions by administrative bodies or officials who violate the law" as objects of dispute in the PTUN.

REFERENCES