



STRENGTHENING SUPERVISION OF ENFORCEMENT OF CIVIL SERVANTS' DISCIPLINE LAW AT THE MINISTRY OF FINANCE

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Abstract

Government agencies are required to enforce discipline on civil servants and carry out various efforts to improve discipline. Disciplinary law enforcement aims to create civil servants with moral integrity, professional, and accountable, as well as productive and with integrity. The formulation of the problem in this study are: (1) How is the regulation of law enforcement for civil servant discipline?; (2) How are the implementation and obstacles in implementing the discipline law enforcement for Civil Servants?; and (3) How to strengthen the supervision of civil servant discipline law enforcement?. The method used in this study is an empirical normative legal approach. The results of the study indicate that there are still deviations from the regulation of civil servant discipline law enforcement, This is influenced by several factors, namely abuse of authority, conflict of interest, leadership, staffing officers who do not receive adequate information in decision making, as well as external pressure. Strengthening supervision can be done by strengthening institutions, for example by establishing an independent supervisory board that is directly responsible to the Minister of finance, increasing the competence of investigative auditors, expanding networks of cooperation or partnerships with other law enforcement officials in the context of increasing mutual understanding, as well as expanding administrative efforts.

Keywords: *Law Enforcement, Civil Servant Discipline, Ministry of Finance*

1. INTRODUCTION

In accordance with the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the state of Indonesia is a state of law. This means that the system of administering the government of the Republic of Indonesia must be based on the principle of people's sovereignty and the principle of the rule of law. One of the important principles of a rule of law is the principle of equality before the law (equality before the law). This principle emphasizes that every citizen is equal before the law with no exceptions. That is, in law enforcement all citizens have the same position and no single citizen is immune to the law. The principle of equality before the law for all citizens has been explicitly regulated in Article 27 paragraph (1) of the 1945 Constitution which states that all citizens have the same position in law and government and are obliged to uphold the law and government with no exceptions. This means that the Republic of Indonesia is a democratic country that upholds human rights and guarantees all rights of citizens along with their position in law and government without exception.

The use of state power against citizens is not without conditions. Citizens cannot be treated arbitrarily as objects. Decisions and/or Actions against Community Members must be in accordance with the provisions of laws and regulations and general principles of good governance. Supervision of decisions and/or actions is a test of the treatment of the citizens involved who have been treated in accordance with the law and taking into account the principles of legal protection that can effectively be carried out by state institutions and the free and independent State Administrative Court. Therefore, the system and procedures for implementing government and development tasks must be regulated in law.

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The government's task is to realize the goals of the state as formulated in the preamble to the 1945 Constitution of the Republic of Indonesia and this task is a very broad task. The scope of government administration tasks is so broad that regulations are needed that can direct the administration of government to be more in line with the expectations and needs of the community (citizen friendly), in order to provide the basis and guidelines for government agencies and/or officials in carrying out government administration tasks. State Administrative Law is all the overall rules that must be considered by every supporter of power entrusted with the task of government (LJ Van Apeldoorn). Therefore,

State administrative law regulates and binds state administration tools in carrying out the authorities that are their duties as state administration tools. In serving citizens, they must always pay attention to the interests of citizens. State administrative law is very important and needed in the administration of state power by the state administration. Its existence plays a role in regulating the authority, duties and functions of state administration, as well as limiting the powers held by state administration tools. Regulations on government administration are regulated in Law Number 30 of 2014 concerning Government Administration, which is an effort to develop basic principles, mindsets, attitudes, behavior, culture and patterns of administrative actions that are democratic, objective, and professionals in order to create justice and legal certainty. This law is the legal basis for the administration of government in an effort to improve good governance and as an effort to prevent the practice of corruption, collusion, and nepotism. Thus, this Law must be able to create a bureaucracy that is getting better, transparent, and efficient. The purposes of the Law on Government Administration are:

1. Creating orderly administration of Government Administration;
2. Creating legal certainty;
3. Prevent abuse of Authority;
4. Ensuring the accountability of Government Agencies and/or Officials;

In the use of their authority to issue an action and/or a decision State administration instruments must refer to the General Principles of Good Governance (AUDG). General Principles of Good Governance are ethical values that live and develop in the legal environment of state administration. Most of the General Principles of Good Governance are still unwritten, abstract principles, and can be explored again in social life. Article 10 of Law Number 30 of 2014 concerning Government Administration, describes the scope of the general principles of good governance that apply in government administration. The general principles of good governance in question include the following principles:

1. Principle of Legal Certainty
2. Benefit Principle
3. Principle of Impartiality
4. Principle of Accuracy
5. The Principle of Not Abusing Authority
6. Principle of Openness
7. Principle of Public Interest
8. Good Service Principle

The State Civil Apparatus is the organizer of government and the implementation of national development. Law Number 5 of 2014 concerning ASN regulates the behavior of State Civil Apparatus so that employees can carry out their duties honestly, responsibly, carefully, with high integrity and discipline and can carry out their duties in accordance with the provisions of the



legislation and carry out all the provisions of the legislation. regarding the discipline of ASN employees. Law Number 5 of 2014 also regulates the discipline of civil servants, contained in article 86 paragraph (1), it is stated that to ensure the maintenance of order in the smooth implementation of tasks, and must comply with all civil servant discipline rules. Furthermore, in paragraph (3) it is stated that civil servants who violate discipline will be subject to disciplinary punishment, then the provisions regarding discipline in this ASN Law are further regulated in PP number 94 of 2021 as a substitute for PP Number 53 of 2010 concerning civil servant discipline. In the national personnel management system, the issue of administrative sanctions imposed by the bureaucracy is related to disciplinary violations. This is intended to ensure order and smoothness in carrying out the main tasks and functions of ASN, improve performance, change ASN attitudes and behavior, improve ASN discipline and accelerate decision making on disciplinary violations committed by ASN. In the national personnel management system, the issue of administrative sanctions imposed by the bureaucracy is related to disciplinary violations. This is intended to ensure order and smoothness in carrying out the main tasks and functions of ASN, improve performance, change ASN attitudes and behavior, improve ASN discipline and accelerate decision making on disciplinary violations committed by ASN. In the national personnel management system, the issue of administrative sanctions imposed by the bureaucracy is related to disciplinary violations. This is intended to ensure order and smoothness in carrying out the main tasks and functions of ASN, improve performance, change ASN attitudes and behavior, improve ASN discipline and accelerate decision making on disciplinary violations committed by ASN.

Discipline of civil servants is very important so that all activities carried out can run well so that all work programs of the Ministry of Finance can be implemented so that the vision and mission and goals of the institution can be achieved. The imposition of disciplinary penalties is absolutely necessary if there is a violation of the applicable regulations. The desired result of giving disciplinary punishment to civil servants who have been given disciplinary punishment as well as to other civil servants as a lesson and creates a deterrent effect for civil servants who are subject to disciplinary punishment.

Law enforcement as a means to achieve legal goals, then all energy should be mobilized so that the law is able to work to realize moral values in law. The failure of the law to realize the value of the law is a dangerous threat to the bankruptcy of the existing law. Laws that are poor in the implementation of moral values will be distant and isolated from the community. The success of law enforcement determines and becomes a barometer of legal legitimacy in the midst of its social reality (Ufran, 2009: vii-viii). In the general explanation of Government Regulation number 94 of 2021 concerning Discipline of Civil Servants, Disciplinary Sentences are intended to foster civil servants who have committed violations, so that those concerned have an attitude of regret and try not to repeat and improve themselves in the future. In addition, civil servants who are sentenced to disciplinary punishment are given the right to defend themselves through administrative efforts, so that arbitrariness in the imposition of disciplinary punishments can be avoided. Thus, it is clear that the imposition of disciplinary penalties is aimed at improving the performance of civil servants without eliminating the rights of these civil servants. The implementation of civil servant discipline law enforcement within the Ministry of Finance is carried out guided by the Minister of Finance Regulation number 97/PMK.09/2018 concerning the instructions for conducting examinations of disciplinary violations and imposing disciplinary penalties for civil servants within the ministry of finance and Minister of Finance Decree number 5/KMK.01 /2021 concerning Guidelines for the Implementation of Government Regulation number 94 of 2021 concerning Discipline of Civil

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From the explanation above, it is clear that the purpose of civil servant discipline is to ensure the maintenance of order in the smooth execution of tasks, to realize civil servants with moral, professional, and accountable integrity, and to encourage civil servants to be more productive. The legal regulation related to civil servant discipline stipulates that disciplinary punishment must be carried out according to the provisions and should not be carried out arbitrarily. With this arrangement, ASN should not easily become the object of power of State Officials. However, in practice, there are still irregularities in the enforcement of disciplinary penalties against civil servants.

Based on the description above, the writer is interested in taking the title "STRENGTHENING SUPERVISION OF ENFORCEMENT OF CIVIL SERVANTS' DISCIPLINE IN THE MINISTRY OF FINANCE".

2. IMPLEMENTATION METHOD

The researcher applies empirical normative legal research. Empirical legal research, can also be called field research, because legal research taken is from the facts that exist in a society, legal entity or government agency, which is based on primary/basic data, namely data obtained directly through observation or observation. interview as the first source. In this study, the author uses a qualitative approach, which is a way of analyzing research results that produces analytical descriptive data, namely data that is stated in writing or orally as well as real behavior, which is researched and studied as a whole. Qualitative research is empirical research that is descriptive and tends to use analysis. In this qualitative research, process and the meaning or perspective of the subject is highlighted. Therefore, the results of this study require in-depth analysis by researchers. In addition, the results of qualitative research are also subjective, so they cannot be generalized.



3. RESULTS AND DISCUSSION

Regulation of Civil Servant Discipline Enforcement

ASN Disciplinary Regulations are rules that are made and apply in a government agency with the aim of demanding and directing staff members to obey him. The ASN Disciplinary Regulations are intended as a coaching activity, which aims to improve the quality and professionalism of ASN in the context of realizing a clean and responsive government to problems that arise in the community. Decisions and/or Actions in the context of enforcing disciplinary law against ASN must be in accordance with the provisions of laws and regulations and General Principles of Good Governance and with due observance of the principles of legal protection.

Legal arrangements related to the enforcement of civil servant discipline are regulated in the provisions of article 86 of Law Number 5 of 2014 concerning the State Civil Apparatus. To implement this article, Government Regulation number 94 of 2021 concerning Discipline for Civil Servants is stipulated. The implementation of civil servant discipline law enforcement within the Ministry of Finance is carried out guided by the Minister of Finance Regulation number 97/PMK.09/2018 concerning the instructions for conducting examinations of disciplinary violations and imposing disciplinary penalties for civil servants within the ministry of finance and Minister of Finance Decree number 5/KMK.01 /2021 concerning Guidelines for the Implementation of Government Regulation number 94 of 2021 concerning Discipline of Civil Servants in the Ministry of Finance.

Implementation of Civil Servant Discipline Law Enforcement in the Ministry of Finance

Minister of Finance Regulation number 97/PMK.09/2018 concerning instructions for conducting examinations of disciplinary violations and imposing disciplinary penalties for civil servants within the ministry of finance, the process of imposing disciplinary penalties begins with:

- a. Recommendations from the Inspectorate General cq the Inspectorate for Investigation or the Internal Compliance Unit of the Directorate General of Customs and Excise or recommendations, opinions, or other information in accordance with the provisions of the legislation.
- b. In the process of imposing disciplinary penalties, a team of examiners can be formed to avoid conflicts of interest.
- c. Examination by the Direct Supervisor or Examination Team of employees suspected of committing disciplinary violations is carried out in a closed manner by digging up information, including:
 - 1) When, where, and how the disciplinary violation occurred;
 - 2) Who is responsible; and
 - 3) The motive and impact of the breach of discipline.
- d. The report on the results of the Discipline Violation Examination as referred to in paragraph (1) shall be completed no later than 25 (twenty five) working days from the date of the inspection report, containing:
 - 1) Basic Discipline Violation Examination;
 - 2) The purpose and scope of the Disciplinary Violation Examination;
 - 3) Result of Discipline Violation Examination;
- e. Conclusions that include: disciplinary violations committed, recommendations for the type of disciplinary punishment or a statement of innocence if the examined employee is not proven to have committed a disciplinary violation.

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- f. The Direct Supervisor submits the report on the results of the Disciplinary Violation Examination to the Punishing Officials in a hierarchical manner through a higher official no later than 5 (five) working days after the date of the report on the results of the Discipline Violation Examination. Attached at least with:
 - 1) Police investigation report;
 - 2) Evidence of disciplinary violations; and
 - 3) Disciplinary Punishment Authority Report in the event that the Direct Supervisor is not authorized to impose disciplinary penalties
- g. The Official with the Authority to Punish issues a decision on the Imposition of Disciplinary Sentences no later than 21 (twenty one) working days after receiving the report on the results of the Disciplinary Violation Examination and the Report on the Authority for the Imposition of Discipline.
- h. In the event that the Employee is not proven to have committed a Discipline Violation and is found not guilty, the Direct Supervisor submits a report on the results of the Discipline Violation Examination to the Head of the Echelon I Unit and the unit that handles Internal Compliance in each of the Echelon I hierarchies through a higher official for a maximum of 5 (five)) working days after the date of the report on the results of the Discipline Violation Examination.

In its implementation, civil servant discipline law enforcement has not been fully carried out according to the above procedure, this is caused by several factors, both internal and external.

Administrative Efforts and Legal Efforts

State Administration is a state administration that carries out the function to carry out government affairs both at the center and in the regions. While the State Administrative Disputes are further regulated in Article 1 paragraph 10 of Law Number 5 of 1986 concerning the State Administrative Court as last amended by Law Number 51 of 2009 namely: "State Administrative Disputes are disputes arising in the field of state administration between individuals or civil legal entities and state administrative bodies or officials, both at the center and in the regions, as a result of the issuance of state administrative decisions, including employment disputes based on the applicable laws and regulations.

Based on the above understanding, then decisions on disciplinary penalties are included in the scope of state administration so that disputes over the issuance of decisions on disciplinary penalties are also included as one of the disputes over State Administrative Decisions (KTUN). Based on article 2 of Government Regulation number 79 of 2021 Administrative Efforts and the State Civil Apparatus Advisory Board, ASN employees or civil servants who are dissatisfied with the Decree of the Personnel Guidance Officer or the Decision of the Official may submit Administrative Efforts. Policy arrangements related to Administrative Efforts serve to protect the rights of ASN employees and to improve the quality of government administration. Administrative Effort Arrangements are a complaint mechanism for ASN employees who view PPK/Official decisions or actions as detrimental to themselves.

In the implementation of good government administration tasks involving external affairs (public services) and those relating to internal affairs (such as personnel affairs), a government agency (TUN Agency/Official) cannot be separated from the task of making State Administrative Decisions. With the increasing complexity of government affairs as well as increasing public knowledge and awareness, it is possible that a conflict of interest will arise between the



government (TUN Agency/Official) and a person/Civil Legal Entity who feels aggrieved by the State Administrative Decree, thus causing a State Administrative dispute.

Administrative effort is a procedure that can be taken by a person or civil legal entity if he is not satisfied with a State Administrative Decision. Based on the formulation of the explanation of Article 48, administrative efforts are a means of legal protection for citizens (individuals/civil legal entities) who are affected by State Administrative Decisions (Beschikking) that harm them through the State Administration Agency/Official within the government itself before being submitted to the agency. Justice. Administrative efforts consist of objections and appeals. In addition to the administrative measures above, civil servants who are sentenced to disciplinary action can also file legal remedies through the State Civil Apparatus Commission (KASN), the Ombudsman of the Republic of Indonesia (ORI) and through a lawsuit to the State Administrative Court (PTUN).

Strengthening Supervision of Law Enforcement Discipline of Civil Servants in the Ministry of Finance

Law enforcement is a series of processes to describe values, ideas, ideals that are quite abstract as legal goals. The purpose of law or legal ideals contains moral values, such as justice and truth. These values must be able to be realized in real reality. The existence of the law is recognized if the moral values contained in the law can be implemented or not (Ufran, 2009: vii). Law enforcement as a means to achieve legal goals, then all energy should be mobilized so that the law is able to work to realize moral values in law. The failure of the law to realize the value of the law is a dangerous threat to the bankruptcy of the existing law. Laws that are poor in the implementation of moral values will be distant and isolated from the community.

Law enforcement must be carried out on an honest, objective and professional basis. If law enforcement is based on the basis of interests not on the basis of professionalism, then law enforcement will lose public trust. This will be dangerous because in law enforcement in addition to requiring commitment by the government/state, full support from the community is also needed.

The supervisory function is carried out on the planning and implementation activities. Supervision activities as a management function intend to determine the level of success and failure that occurs after planning is made and implemented. Success needs to be maintained and if possible improved in the implementation of the next management/administration within a particular organization/work unit. On the other hand, every failure must be corrected by avoiding its causes both in planning and implementing it. For this reason, the supervisory function is carried out, in order to obtain feedback to carry out improvements if there are errors or deviations before they become worse and difficult to repair.

Within the Ministry of Finance, there are generally three types of supervision, namely:

- a. Inherent supervision, which is carried out by the direct supervisor.
- b. Functional Supervision, namely supervision carried out specifically by the Government Internal Supervisory Apparatus (APIP) to assist leaders in carrying out internal supervision.
- c. Social/Political Supervision, namely Informal supervision which is usually carried out by the community either directly or indirectly. This supervision is also often called social control. Examples of this type of supervision include monitoring through public complaints letters, through the mass media and through the Ministry of Finance's internal complaint channel (WISE).

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In addition, the supervisory system at the Ministry of Finance is also supported by an ICT-based information system (Information Communication Technology) that relies on information technology continuous development of the four core application pillars that form the backbone of the Inspectorate General's main business processes as the Internal Audit unit, namely:

a. *Audit Management System*

The implementation of the ERP-based Audit Management System developed by Wolters Kluwer for audit institutions under the name TeamMate since 2010. The use of TeamMate replaces the Audit Management System developed in-house by the Inspectorate General, namely the Wasnal application, which is the beginning of the development of a database of findings and follow-up of inspection results by the Inspectorate General.

b. *Case Management System*

Case Management System is an information system that integrates investigative audit activities. Starting from the incoming complaint, complaint verification, collection of materials and information, investigative audit and follow-up, as well as job profiling and employee profiling. Thus, this information system is an integration project for individual applications that have existed previously, namely the Whistleblowing System (Wise), the Ministry of Finance's Personal Tax Reports (E-LP2P), and the Mailing application.

c. *Continuous Audit Management System*

The development of the Continuous Audit Management System begins with the simple implementation of the Computer Assisted Audit Technique (TABK). Initially, the implementation of TABK was carried out with the help of Microsoft Office Excel applications. However, Excel's limitations in processing more than one million records ultimately prompted the IG to switch to desktop ACLs in 2009.

It does not stop there, the Inspectorate General continues to work on the development of continuous audits, the first in terms of organizational policies. Two Minister of Finance Decrees were then issued in 2010 which became the legal basis for the realization of continuous audit within the Ministry of Finance. The first is KMK Number 274/KMK.01/2010 concerning Electronic Data Exchange Policies and Standards in the Ministry of Finance. And the next is KMK Number 296/KMK.09/2010 concerning Provision of Data and Information in the Context of Supervision by the Inspectorate General of the Implementation of Duties and Functions of Echelon I Units in the Ministry of Finance. Through these two KMKs, then every Echelon I unit in the Ministry of Finance is obliged to upload data on the Data Exchange Portal managed by Pusintek as the IT unit at the Ministry of Finance level. Not only that, but the data contained in the Data Exchange Portal can be used by the Inspectorate General for monitoring activities.

d. *Risk and Control Self Assessment*

The Internal Compliance Unit in each echelon I of the Ministry of Finance is the latest implementation of the supervisory strategy. According to CM Susetya, the main task and function of the Internal Compliance Unit is to conduct tests on the Internal Controls that have been implemented by management. In addition, UKI also complies with the implementation of Risk Management that has been carried out by management, quality management testing and assurance of asset security managed by management.

The formation of UKI in each echelon I itself actually refers to the Three Lines of Defense concept. This concept assumes the existence of one of the management functions, namely controlling as the first line of defense, through internal control inherent in the SOPs



that have been prepared by management, which cannot be implemented optimally by management. So that a second line of defense is needed which in the Ministry of Finance is referred to as the Internal Compliance Unit, as well as a third line of defense, namely Internal Auditors, External Auditors, and Regulators.

The practice of implementing an ICT-based Supervisory Information System within the Inspectorate General of the Ministry of Finance has brought about major changes in the supervision of business processes within the Ministry of Finance. However, there are several things that seem to need attention, firstly, the audit/supervision information system in the inspectorate general of the Ministry of Finance does not yet include control over the enforcement of employee discipline laws. So as far as the researcher's knowledge, there has been no improvement in the process of imposing disciplinary penalties for employees within the Ministry of Finance. The researcher also believes that the enforcement of disciplinary laws in the Ministry of Environment is still not sufficient effective and on target, this is supported by an increase in the number of employees who are sentenced to Discipline which continues to increase every year.

Based on the explanation above, the researcher is of the opinion that it is necessary to strengthen supervision of the enforcement of disciplinary penalties for civil servants within the Ministry of Finance, for example by updating the supervisory system, strengthening institutions by adding an independent supervisor who is directly responsible to the Minister of Finance, strengthening the competence of resources at the Inspectorate. General, especially in the field of law, expansion of cooperation networks/partnerships with other Law Enforcement Apparatuses in order to increase mutual understanding in law enforcement, as well as expansion of internal administrative efforts.

4. CONCLUSION

Based on research on the Enforcement of Disciplinary Sentences to Civil Servants at the Ministry of Finance, the researcher can conclude that:

- a. The need for confirmation regarding the legal regulation of supervision of law enforcement discipline of Civil Servants in the Ministry of Finance.
- b. It was found that there were deviations from the regulation of civil servants' disciplinary law caused by factors as stated in the explanation of Government Regulation number 79 of 2021 concerning Administrative Efforts and the State Civil Apparatus Advisory Body, namely:
 - 1) Internal factors :
 - a) Abuse of authority
 - b) Conflict of Interest
 - c) PThe Civil Service Supervisory Officer lacks adequate information in decision making
 - 2) External factors in the form of pressure from external parties
- c. The supervision system owned by the Ministry of Finance through the Inspectorate General is already based on an ICT-based information system (Information Communication Technology) throughThe four core application pillars that form the backbone of business processes, namely the Audit Management System, Case Management System, Continuous Audit Management System, and Risk and Control Self Assessment, have brought about major changes in the supervision of business processes within the Ministry of Finance. However, the researcher considers that in order to achieve the expected legal objectives of the civil servant disciplinary law within the Ministry of Finance, it is necessary to strengthen the supervision of its implementation by issuing related legal regulations.

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- d. Administrative efforts are too short, so that employees who are dissatisfied with decisions on administrative measures are forced to bring problems related to State Administration disputes to external/external parties.

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