

JUDICIAL LIMITS OF INTERVENTION IN ADMINISTRATIVE COURT

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Abstract

This journal aims to analyze the intervention process in dispute resolution in the Administrative Court. This study identifies two main problems: first, the mechanism for third-party entry into the dispute resolution process in the Administrative Court, and second, the legal consequences of third-party intervention in the case under study. The results of the study show that based on Article 83 of Law Number 5 of 1986 concerning Administrative Courts, third parties can enter the trial process during the examination, either on their own initiative, at the request of one of the parties, or at the initiative of the judge. The legal consequence of the entry of this third party is that they obtain the status of the Second Defendant of Intervention, which gives them the right to defend their interests in the trial process. This study emphasizes the importance of the presence of third parties in maintaining justice and legal certainty in state administrative disputes. The conclusion of this paper is that although intervention provides an opportunity for interested parties to participate in the legal process, there is a need for renewal and codification of the code of procedure in the Administrative Court to be more responsive to the dynamics of existing dispute resolution.

Keywords: *Administrative Court; intervention; third-party.*

INTRODUCTION

Constitution of the Republic of Indonesia 1945, it is firmly affirmed that the Unitary State of the Republic of Indonesia is a state governed by law. Consequently, the state must uphold the principles of the rule of law and the protection of human rights, based on legal norms. As a state governed by law, Indonesia embraces the concept of a welfare state, which represents one of the nation's primary objectives. The welfare state is widely regarded as the most appropriate framework for the state's involvement in promoting the well-being of its people. This belief is further reinforced by empirical evidence highlighting both market failures and state failures in enhancing public welfare. Under the welfare state concept, the government is expected to expand its responsibilities toward addressing the socio-economic issues faced by society. In order to achieve the goals of a welfare state—namely, the well-being of its citizens—the state is obliged to intervene in various aspects of societal life that would otherwise remain untouched by government involvement.

Public administration serves as the operational apparatus of the state in delivering public services, representing a form of government intervention. Through active engagement, the government prepares measures to anticipate potential disputes between administrative bodies or officials and the general public. To address this, the government established the Administrative Court under Law No. 5 of 1986 concerning the Administrative Court, as amended by Law No. 9 of 2004 and most recently by Law No. 51 of 2009, hereinafter referred to as the PTUN Law. The existence of the Administrative Court represents one judicial avenue for implementing the principle of legal protection, alongside administrative oversight conducted within government institutions. The presence of PTUN provides a judicial foundation for evaluating executive actions and ensuring legal protection for citizens. It can be stated that the Administrative Court sets clear boundaries regarding the parties who may participate in legal proceedings. Those eligible to act as plaintiffs are individuals or legal entities who believe their interests have been harmed as a result of an administrative decision. Meanwhile, those who may be sued in the Administrative Court are administrative bodies or officials who possess the authority to issue such administrative decisions. Article 1, point 10 of Law No. 51 of 2009 concerning the Administrative Court (Peradilan Tata Usaha Negara or PTUN) states:

"An Administrative Dispute is a dispute arising in the field of administrative affairs between an individual or civil legal entity and an administrative body or official, either at the central or regional level, as a result of the issuance of an administrative decision, including employment-related disputes based on the prevailing laws and regulations".¹ The Administrative Court is one of the judicial institutions in Indonesia where citizens can file a lawsuit if an administrative decision issued by an administrative official harms their interests. Law No. 30 of 2014 on Government Administration has broadened the scope of what constitutes an administrative decision. Administrative decision is a written determination issued by a government body and/or official in the administration of governance. This expansion is detailed in Article 87 of the Law No. 30 of 2014 on Government Administration. According to this article, administrative decision as referred to in Law No. 5 of 1986 on the Administrative Court (as amended by Law No. 9 of 2004 and Law No. 51 of 2009) should be interpreted to include several aspects: first, written determinations, including factual actions; second, decisions of administrative bodies and/or officials within the executive, legislative, judicial branches, and other state institutions; third, based on statutory provisions and general principles of good governance; fourth, final in a broader sense; fifth, decisions that may have legal consequences; and sixth, decisions that apply to citizens.²

Beyond the parties directly involved in a case, there are also third parties who may join ongoing administrative disputes. These are individuals with a vested interest in the outcome of another party's dispute, who may be included in the proceedings because they may be adversely affected by the court's decision.³ Article 83, paragraph (1) of Law No. 5 of 1986 on the Administrative Court explains the concept of intervention or the inclusion of a third party during proceedings: "During the proceedings, any person with an interest in another party's dispute being examined by the Court, either on their own initiative by filing a request, or at the initiative of the Judge, may join the administrative dispute and act as:

- a. a party defending their own rights; or
- b. a participant joining one of the disputing parties".⁴

As stated in the preamble of Law No. 5 of 1986, the purpose of the Administrative Court in Indonesia is to guarantee equality before the law and maintain a harmonious, balanced, and aligned relationship between administrative officials and citizens. The core essence of PTUN as an administrative court is to preserve harmony between individual rights and to provide legal certainty for public interests under government oversight.⁵ The participation of a third party is commonly referred to as intervention. According to Article 83 of the Administrative Court Law, a third party can act as either a party defending their own rights or a participant joining one of the disputing parties. Requests to become a third party are granted or rejected by the judge through an interlocutory decision and recorded in the minutes of the proceedings.

The interests of third parties require attention to ensure legal certainty and protection, as well as certainty regarding the contested administrative decision. Since the object of an administrative dispute is the administrative decision itself, the entry of a third party must consider the positions of the primary parties. The interests of third parties can influence the judge's ruling on the main case. Therefore, third parties need to understand the procedure for filing an intervention claim. If the procedural requirements are not met, the intervention claim may be rejected by the court in an interlocutory decision, which could be detrimental to the third party. Furthermore, the PTUN Law does not clearly regulate the procedure for filing an intervention claim, highlighting the need for further study on this matter. In this context, there is a case involving the inclusion of a third party in the Pekanbaru Administrative Court, Case Number: 14/G/2023/PTUN.PBR. In this case, Marlinis SY and Asnani, as plaintiffs, claimed to be harmed by the issuance of disputed objects in the form of Ownership Certificates and Usage Certificates issued by the defendant, the Head of the Pekanbaru Land Office.⁶ The disputed land certificates issued by the defendant include, among others, Usage Certificate No. 619, covering 40,000 m² in the name of the Riau Provincial Government; Usage Certificate No. 52, covering 52,000 m² in the name of the Riau Provincial Government; and Ownership Certificate No. 13725, covering 1,043 m² in the name of Aditya Wisnu Wardanie. These certificates

¹ Pasal 1 angka 10 Undang-Undang Nomor 51 Tahun 2009 tentang Perubahan Kedua Atas Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara

² Ni Luh Mahisa Mahardani, "Kajian Teoritis Terhadap Kedudukan Tergugat Ii Intervensi Dalam Sengketa Peradilan Tata Usaha Negara", Airlangga Press, (2007), hal 4

³ Kadek Dwi Fitriyanti, "Kedudukan Pihak Ketiga Dalam Proses Penyelesaian Sengketa di Pengadilan Tata Usaha Negara (Studi Kasus Perkara Nomor: 23/G/2015/PTUN.DPS)", Jurnal Analogi Hukum Vol.1 No. 2 (2019), hal 255.

⁴ Pasal 83 ayat (1) Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara

⁵ Irvan Mawardi, *Paradigma Baru PTUN, Respon Peradilan Administrasi Terhadap Demokrasi*, (Yogyakarta: Thafa Media, 2016), hlm. 1.

⁶ Putusan Pengadilan Tata Usaha Negara Pekanbaru Nomor 14/G/2023/PTUN.PBR, hal 1

caused overlapping or dual ownership on the plaintiffs' land.⁷ Consequently, Marlinis SY and Asnani filed a request to join the dispute as third parties, asserting that their interests were at risk. During the trial, this case saw multiple interventions. The first intervention was made by the Riau Provincial Government on its own initiative to protect its interests. The court granted the intervention through an interlocutory decision, placing the provincial government as Defendant II Intervention. Later, the judge also initiated an intervention by issuing an interlocutory decision before the main ruling, involving Aditya Wisnu Wardanie as Defendant II Intervention 2. Although the Administrative Court Law has undergone several revisions, weaknesses remain, such as the lack of a clear time limit for third-party entry in proceedings. Based on the background above, studying the inclusion of third parties (intervention) in Administrative Court proceedings is an interesting topic from an academic and legal perspective. From the issues outlined, the main question to be explored in this study is: When is the final deadline for a third party to enter the proceedings (intervention) in the Administrative Court.

LITERATURE REVIEW

In procedural law, intervention is defined as the entry of a third party into the trial process of an ongoing case. The purpose of intervention is to protect the legal interests of third parties who may be affected by the court's decision. According to Sudikno Mertokusumo (1999), intervention is one form of legal protection to ensure that the rights of third parties are not neglected in the process of dispute resolution. The regulation on third-party intervention in administrative disputes is stipulated in Article 83 of Law Number 5 of 1986 concerning the Administrative Court. However, this provision is considered to still create legal uncertainty (vagueness of norm), as it does not clearly explain the limits and legal standing of the intervening party, whether as a party supporting one of the litigants or as an independent party with its own legal interests.

Several previous studies indicate that intervention in the Administrative Court continues to face challenges. For instance, Hernoko (2010) emphasized that the presence of third parties in the Administrative Court should provide fair legal protection, yet the existing regulations remain inadequate. Similarly, Jurnal Hukum Peradilan (2019) stated that differences in judges' interpretations regarding intervening parties have led to inconsistencies in rulings. Despite the existence of regulations and scholarly discussions on intervention, there are still gaps, such as the lack of clarity regarding the scope of authority of intervening parties in administrative court proceedings; the absence of detailed regulations concerning forms of legal protection for intervening parties; and the limited number of empirical studies on the practice of intervention in Indonesia's Administrative Courts. Thus, this literature review underscores that research on third-party intervention in the Administrative Court is essential to fill legal gaps, provide legal certainty, and strengthen the protection of third-party rights in the settlement of administrative disputes.

METHOD

This study employs normative legal research, which focuses on examining the contents of laws and regulations. Normative legal research involves the study of legal principles and doctrines. In this research, the analysis is conducted by reviewing several types of regulations related to legislation. For this discussion, the primary focus is on the Administrative Court Law (Law on Peradilan Tata Usaha Negara) as well as other related regulations. The statutory approach is defined as a type of research approach carried out by reviewing regulations that are relevant to a particular case (case approach) with the aim of examining the issues being studied. The legal sources used in this study are primary legal sources. The techniques used to analyze and process legal materials in this research involve the collection and retrieval of literature, followed by qualitative processing. Qualitative material analysis is defined as a series of efforts undertaken by organizing materials, selecting them for practical use, processing, synthesizing, identifying patterns, recognizing key points, and making determinations regarding what can be explained or applied to others.

RESULTS AND DISCUSSION

The judiciary, or *rechtspraak* in Dutch, and judiciary in English, encompasses all matters related to the state's role in enforcing law and justice. According to Van Praag, the judiciary is the determination of the applicability of a legal rule to a concrete event in relation to the emergence of a dispute.⁸ Thus, the judiciary is a neutral body or institution that examines concrete legal events, then integrates these events into abstract legal norms and expresses

⁷ Ibid, hal 3

⁸ SF. Marbun, *Peradilan Tata Usaha Negara*, (Yogyakarta: Liberty, 1988), hal. 21

them in the form of rulings, ensuring the enforcement of law and justice.⁹ The Administrative Court (Peradilan Tata Usaha Negara or PTUN) is one of the pillars of the judiciary among the four courts under the Supreme Court. PTUN serves as a judicial authority for citizens seeking justice in administrative disputes. The constitutional basis for the establishment of PTUN is Article 24 of the 1945 Constitution. Implementing this article, the Law on Judicial Power was enacted, most recently amended by Law No. 48 of 2009 on Judicial Power. Subsequently, Law No. 5 of 1986 on the Administrative Court was enacted, as amended by Law No. 9 of 2004, and finally amended by law No. 51 of 2009.

According to A. Siti Soetami, PTUN functions as a control on the administration. The Administrative Court serves as a judicial institution for citizens seeking justice in administrative disputes.¹⁰ Meanwhile, according to Y. Sri Pudyatmoko and W. Riawan Tjandra, PTUN is an institution designed to resolve administrative disputes between administrative bodies or officials and citizens seeking justice, as an implication of the government's active and positive role in society. Through judicial control exercised by PTUN, indirect guidance is also provided to state apparatuses as bureaucratic actors.¹¹ Article 1, point 10 of Law No. 51 of 2009 defines an Administrative Dispute as a dispute arising in the field of administrative affairs between individuals or civil legal entities and administrative bodies or officials, either at the central or regional level, resulting from the issuance of an administrative decision, including employment-related disputes based on applicable laws and regulations.

Based on Article 53, paragraph (1) of Law No. 9 of 2004 on the Administrative Court:

"Individuals or civil legal entities who feel their interests are harmed by an administrative decision may submit a written lawsuit to the competent court, requesting that the disputed administrative decision be declared null or invalid, with or without claims for compensation and/or rehabilitation".¹² The explanation of Article 53, paragraph (1) clarifies that only individuals or civil legal entities, as legal subjects, may file a lawsuit with PTUN to challenge an administrative decision. Administrative bodies or officials cannot file a lawsuit to challenge an administrative decision. Only those individuals or legal entities whose interests are directly affected by the legal consequences of the administrative decision and who feel aggrieved are permitted to file a lawsuit. Furthermore, Article 83 of Law No. 5 of 1986 on the Administrative Court states:

"During the proceedings, any person with an interest in another party's dispute being examined by the Court, either on their own initiative by submitting a request, or at the initiative of the Judge, may join the administrative dispute and act as:

- a. a party defending their own rights; or
- b. a participant joining one of the disputing parties".¹³

Based on the provisions of the articles in the Administrative Court Law mentioned above, it can be understood that the subjects in an administrative dispute (TUN dispute) are:

1. Plaintiff: Members of the public, namely individuals or civil legal entities whose rights are affected by a decision and/or action. Government bodies may act as plaintiffs to protect their civil rights.
2. Defendant: Government bodies and/or officials, defined functionally, based on the performance of governmental functions, whether within the government or other state institutions.
3. Intervention: Individuals or civil legal entities not directly targeted by the disputed object (third parties) but who feel disadvantaged by the existence of the disputed object. On the initiative of the judge or their own initiative, such third parties may submit a request to join the ongoing TUN dispute.¹⁴

The inclusion of a third party, or intervention, in court proceedings is derived from the Dutch term *interventie*. In Indonesia, experts have translated it in various ways. Indroharto refers to it as "input from a third party",¹⁵ Zairin Harahap and Wicipto Septiadi call it "participation of a third party",¹⁶ while S.F. Marbun uses "entry

⁹ Lulik Tri Cahyaningrum, "Intervensi Pihak Ketiga Dalam Sengketa Tata Usaha Negara Dalam Rangka Perlindungan Hukum Bagi Kepentingan Pihak Ketiga", Tesis Ilmu Hukum, Program Studi Magister Hukum Pemerintahan Fakultas Hukum Universitas Airlangga, (Surabaya, UNAIR, 2004), Tidak dipublikasikan, hal 41.

¹⁰ A. Siti Soetami, *Hukum Acara Peradilan Tata Usaha Negara* (Bandung: Refika Aditama, 2007), hal.9.

¹¹ Y. Sri Pudyatmoko dan W. Riawan Tjandra, *Peradilan Tata Usaha Negara Sebagai Salah Satu Fungsi Kontrol Pemerintah* (Yogyakarta: Universitas Atma Jaya, 1996), hal. 51.

¹² Pasal 53 Ayat (1) Undang-Undang Nomor 9 Tahun 2004 tentang Perubahan Atas Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara

¹³ Pasal 83 Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara

¹⁴ Sudarsono, *Petunjuk Praktis Beracara di Peradilan Tata Usaha Negara Konvensional dan Elektronik edisi Pertama*, (Jakarta: PRENADAMEDIA Group: 2019), hal. 34.

¹⁵ Indroharto, 1999, *Usaha Memahami Undang-Undang Tentang Peradilan Tata Usaha Negara*, Buku II, Beracara di Pengadilan Tata Usaha Negara, Jakarta: Pustaka Sinar Harapan, hal. 37

¹⁶ Wicipto Setiadi, *Hukum Acara Pengadilan Tata Usaha Negara* (Jakarta: PT Raja Grafindo Persada, 1994), hal. 163.

of a third party”.¹⁷ Meanwhile, Sudikno Mertokusumo and Pitlo translate it as “interference”.¹⁸ In the Indonesian dictionary, the word intervention means an act of interference in a conflict or dispute between two parties.¹⁹ Rozali Abdullah explains that in the process of examining a TUN dispute, the involvement of a third party—an individual or civil legal entity—is possible, allowing them to participate or be included in the proceedings of an ongoing dispute.²⁰ Similarly, R. Wiyono explains that the participation of a third party in a TUN dispute is called intervention.²¹ According to the PTUN Law, intervention is the participation of another party in a dispute. This “other party” refers to anyone outside the dispute whose interests are affected by the contested administrative decision.

According to Rozali Abdullah, generally, the participation of a third party in court proceedings can take several forms, namely:

1. Tussenkomst (intermediate intervention)

Tussenkomst refers to a third party who, on their own initiative, can submit a request to the court to participate in ongoing proceedings in order to defend or protect their own rights and interests, so as not to be harmed by the court’s decision. If the request is granted, the third party assumes an independent position in the dispute proceedings and is called an intervenient. Tussenkomst is also commonly used in civil procedural law to describe the entry of a third part. In the context of administrative court procedure, Tussenkomst can be exemplified by a TUN decision for the eviction of land on which public housing has been built. If a house on that land has been leased to another party, the owner of the house may participate in the court proceedings on their own initiative, because if they do not participate, their rights may be adversely affected by the court’s decision.

2. Voeging (joining)

Voeging refers to the participation of a third party in the examination of an ongoing administrative dispute (TUN dispute) at the request of one of the disputing parties, namely the plaintiff or the defendant. The application is submitted by the interested party to the court so that the third party in question may be included in the proceedings to join the applicant’s side in order to strengthen the applicant’s legal position. Voeging is one of the terms used for the participation of a third party in civil procedural law. An example of Voeging in administrative procedural law is as follows: a TUN decision regarding the transfer (mutation) of an official. For instance, person X is reassigned to a lower position, even though according to their rank and grade, X should not occupy such a lower position. In this situation, X may bring in a third party (a higher-ranking official) to strengthen his position.

3. Special Intervention

Special intervention refers to the involvement of a third party in the examination of an ongoing dispute based on the initiative of the judge handling the case. In this type of intervention, the judge brings the third party into the proceedings as Defendant II (intervenor). This special nature lies in the fact that the third party’s involvement is mandated by the judge in order to facilitate the resolution of the dispute.²²

An example of special intervention is when the judge draws a third party into the dispute because that third party has interests aligned with those of the defendant. At times, during the course of administrative court proceedings, the interests of third parties emerge that deserve attention. In some cases, it is precisely these third parties who can provide clarity regarding the case at hand, due to their related interests in the dispute being processed.²³ The inclusion or participation of such third parties is regulated under Article 83 of Law No. 5 of 1986 on the Administrative Court, which stipulates that individuals outside the parties already involved in proceedings before the Administrative Court may be included or may participate as parties in the ongoing case. To be admitted as a party in the dispute, the third party must demonstrate sufficient legal interest in the case as a basis for requesting intervention. However, in practice, there are differing views as to the point in time up until which a third party may be allowed to enter into the ongoing proceedings. First, according to Indroharto, he argues that the provision “during the examination process” should be interpreted as “during the preliminary examination process.” This is because if third-party intervention were allowed beyond the preliminary stage, it could disrupt the proceedings when the trial

¹⁷ S. F. Marbun, *Peradilan Administrasi dan Upaya Administratif di Indonesia* (Yogyakarta : UII Press, 2003), hal.

¹⁸ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Edisi Kelima, (Yogyakarta: Penerbit Libery,1998), hal.

¹⁹ Daryanto, *Kamus Bahasa Indonesia Lengkap* (Surabaya: Apollo, 1997), hal.287.

²⁰ Rozali Abdullah, *Hukum Acara Peradilan Tata Usaha Negara* (Jakarta: PT.Raja Grafindo Persada, 2001). hal. 54

²¹ R. Wiyono, *Hukum Acara Peradilan Tata Usaha Negara* (Jakarta: Sinar Grafika, 2010), hal. 75

²² Rozali Abdullah, *Op.Cit*, hal 55.

²³ Indroharto, *ibid.* 94.

has already entered or is about to enter the evidentiary stage. The reasoning behind limiting third-party intervention only until the preliminary examination is that by that point, the Panel of Judges would already have identified all aspects related to the object of the dispute, its facts, or legal issues involving third parties or multiple disputing parties. In addition, this limitation also benefits the third party, as they are no longer bound by strict deadlines when entering or being requested to join the dispute.²⁴

Second, based on Book II of the Technical Guidelines for Administration and Judicial Practice of the Administrative Court, intervention is defined as the participation of a third party—whether an individual or a legal entity under civil law—that has an interest in the dispute between other parties currently being examined by the Court. Such intervention allows them to enter as a party, either on their own initiative by submitting an application, or at the initiative of the Judge. Intervention may take place from the filing of the case up until the stage of duplik (final reply).²⁵ This differs from Indroharto's theory, which limits third-party intervention strictly to the preliminary examination stage. The extension of the timeframe for intervention under the guidelines allows a third party to enter during the exchange of pleadings, specifically before duplik or the reading of the defendant's response to the plaintiff's replik. Third, in the Implementation Guidelines (Juklak) of the Supreme Court of the Republic of Indonesia No. 222/Td.TUN/X/1993 dated October 14, 1993, item III, it is stated that an application for intervention may be submitted before the examination of witnesses. According to this guideline, a third party with an interest in an ongoing case may join the proceedings during the evidentiary stage, but only prior to the witness examination. This provision thus grants additional time for an interested third party to enter and participate in the ongoing proceedings.²⁶

Fourth, pursuant to Article 83 of Law No. 5 of 1986 on the Administrative Court, it is stipulated that during the examination process, any person with an interest in a dispute being examined by the Court, either on their own initiative by submitting an application or at the initiative of the Judge, may join the dispute and act as a party defending their rights, or as a participant joining one of the disputing parties. Many Administrative Court judges interpret the phrase “during the examination process” to mean from the preliminary examination until before the reading of the decision. This broad interpretation provides greater opportunity for any interested party to join as a third party (intervenor), either to defend their own rights or to support one of the disputing parties in an ongoing case. Whether a petition for intervention submitted by the intervening party is granted or rejected by the Administrative Court will be recorded in an interlocutory decision (putusan sela) and documented in the official minutes of proceedings.

The existence of multiple theories and rules regarding the timeframe for third-party intervention in the Administrative Court has led to legal uncertainty as to when exactly the deadline for intervention ends in ongoing disputes. This issue also arose in a case before the Administrative Court of Pekanbaru, namely Case No. 14/G/2023/PTUN.PBR, in which two separate interventions occurred during the proceedings. In this case, the Panel of Judges granted the intervention request submitted by the Provincial Government of Riau, reasoning that there was a potential loss to the intervening party, namely the Provincial Government of Riau, arising from the lawsuit filed by the Plaintiffs in the a quo case. Consequently, the Provincial Government of Riau was deemed to have a legal interest in defending its rights over the disputed object challenged by the Plaintiffs. The Panel of Judges therefore granted the intervention request, and the Provincial Government of Riau became the Intervening Defendant (Tergugat Intervensi) in Case No. 14/G/2023/PTUN.PBR. The entry of the Provincial Government of Riau into the proceedings occurred during the preliminary examination stage, thus aligning with the theory put forward by Indroharto. Government of Riau Province which filed an intervention request on its own initiative, Aditya Wisnu Wardanie entered as an intervening party on the initiative of the judges. The Panel of Judges had summoned him four (4) times, yet there was no response at all from the prospective intervenor. The Panel of Judges then considered that there was a potential loss that Aditya Wisnu Wardanie would suffer in the case. Therefore, at the discretion of the Panel of Judges, Aditya Wisnu Wardanie was designated as Defendant II Intervenor in the case. However, there is something unique about the intervention of Aditya Wisnu Wardanie, namely that the Panel of Judges included him as an intervening party just before the reading of the decision. Thus, this does not conform either with the theory put forward by Indroharto or with the regulations that set the limits on third-party interventions in ongoing State Administrative disputes. In its considerations, the Panel of Judges referred to the explanation of Article 83 paragraph (1) of Law Number 5 of 1986, which essentially provides the possibility for a person or a civil

²⁴ Indroharto, Ibid, hal 95-96.

²⁵ Mahkamah Agung, *Pedoman Teknis Administrasi dan Teknis Peradilan Tata Usaha Negara*, (Jakarta: Mahkamah Agung, 2008), hal 63.

²⁶ Petunjuk Pelaksana Kamar Tata Usaha Negara Mahkamah Agung Republik Indonesia Nomor 222/Td.TUN/X/1993 tanggal 14 Oktober 1993

legal entity outside the disputing parties to participate or be included in the examination of an ongoing case. Such third-party intervention may occur in the following circumstances:

1. The third party, on their own initiative, wishes to defend or protect their rights and interests so as not to be harmed by the court's decision in the ongoing dispute;
2. The third party enters the ongoing case at the request of one of the parties (the plaintiff or the defendant);
3. The third party enters the ongoing case on the initiative of the judge examining the case.

Furthermore, based on the legal facts, Aditya Wisnu Wardanie is listed as the holder of Ownership Certificate Number: 13725, Simpang Tiga Sub-District, dated April 18, 2022, Survey Document Number: 12654/Simpang Tiga/2018 dated February 23, 2018, covering an area of 1,043 m² in the name of Aditya Wisnu Wardanie. Thus, Aditya Wisnu Wardanie has a legal interest to defend or protect his rights to the object of dispute, and his intervention is legally grounded and in accordance with the provisions of Article 83 of Law Number 5 of 1986 on the State Administrative Court.

CONCLUSION

The regulation on the participation of third parties in disputes before the State Administrative Court is provided in Article 83 of Law Number 5 of 1986 concerning the State Administrative Court, in Book II on Technical Guidelines for Administration and Judicial Procedures of the State Administrative Court, as well as in the Supreme Court Instruction Number 222/Td.TUN/X/1993 dated October 14, 1993, which was formulated during the Stage III Training on Strengthening the Skills of State Administrative Court Judges in 1993. However, in each of these regulations, there remains no legal certainty regarding the limits of third-party intervention in the settlement of disputes before the State Administrative Court. In Case Number 14/G/2023/PTUN.PBR, there is a discrepancy between the existing regulations and courtroom practice, where a third-party intervention occurred in the process of resolving a State Administrative dispute at the initiative of the judge, but such intervention was admitted just before the reading of the decision. This reflects a gap between *das sollen* (what ought to be) and *das sein* (what is) in the case. Therefore, lawmakers should exercise caution in formulating and determining the proper regulations so as not to create multiple interpretations of procedural guidelines, particularly with respect to determining the participation of interested parties in ongoing cases. It is expected that the competent regulatory authorities will review the existing provisions on third-party intervention in State Administrative disputes so that, in the future, conflicts of norms between one regulation and another will no longer arise.

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