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Journal of Law and Policy Transformation
Website : https://journal.uib.ac.id/index.0hp/jlpt | E-ISSN : 2541-3139
JLPT Vol 7, No. 2-December 2022

ADMINISTRATIVE SANCTIONS AGAINST ABUSE OF AUTHORITY IN THE ENVIRONMENTAL LICENSING SECTOR BASED ON POSITIVE LAW IN INDONESIA

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Abstract

Administrative sanction is a legal instrument used within the scope of state administrative law. Provisions regarding administrative sanctions are contained within the scope of state administrative law, one of which is contained in the rules regarding licensing. The Permit is the most widely used juridical instrument in the scope of administrative law. In carrying out an activity carried out by the community, it must be related to the environment because the environment is an absolute part of human life. In practice, there are several phenomena of granting Environmental Permits that are contrary to laws and regulations which are indications of abuse of authority, but the application of administrative sanctions is not implemented properly. This research uses a normative research method with an analytical descriptive method. The results of the study conclude that the administration of administrative sanctions regulated in the government administration law against government agencies or officials committing acts of abuse of authority has not been implemented because administrative sanctions are applied using civil servant disciplinary penalties.

Keywords: Administrative Sanctions, Abuse of Authority, Environmental Permits

A. Introduction

The state of Indonesia is a state of law, as stated in Article 1 paragraph (3) of the 1945 Constitution. Every legal state is required to apply the principle of legality in all its forms as stated by Jimly Asshiddiqie, that all government actions must be based on valid laws and regulations. and written in which the laws and regulations must exist and apply first or in other words precede the actions or administrative actions carried out.[1] The term principle of legality is also known in various fields of law such as, Criminal Law, Islamic Law, and State Administrative Law. The principle of legality used in state administrative law has the meaning, "*Dat het bestuur aan de wet is onderworpen*" (that the government is subject to the law) or the principle of legality determines that all provisions that bind citizens must be based on law.[2]

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[1] Jimly Asshiddiqie, *Konstitusi & Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2010).
[2] Ridwan H. R., *Hukum Administrasi Negara* (Jakarta: Raja Grafindo Persada, 2014).

The principle of legality is one of the main principles that is used as the basis in every administration of government and state in every legal state, especially for legal countries in the Continental European system. In line with the principle of legality which implies that all actions must be based on statutory regulations. Likewise, in imposing and implementing sanctions, it must be based on strict provisions in the laws and regulations that give that authority (the principle of legality). Philipus M. Hadjon, et al stated that:

> *"Sanctions are an important closing part in law, as well as in administrative law. In general, there is no point in including obligations or prohibitions for citizens in the state administrative laws and regulations, when the rules of conduct cannot be imposed by the state administration (in the event that it is necessary)."*[3]

Sanctions are the result of an act or a reaction from another party, be it a human being or a social organization for a human act. Furthermore, Utrecht said that in terms of violating the law, the government can act as the holder of the Legitimacy (ratification) of legal power.[4] Any action taken by a Government Agency or Official in the context of implementing the laws and regulations will not be effective if it is not accompanied by law enforcement. Law enforcement against a statutory regulation can take various forms, one of which is stated in the provisions of sanctions which can be in the form of criminal sanctions, civil sanctions, or administrative sanctions. The provision of sanctions, whether criminal, civil, or administrative, is an option, meaning that all three do not have to be applied, but which one is the most effective and the most appropriate to the scope of the substance of the regulation. If the substance of the legislation is within the scope of administrative law, then it is inappropriate to force criminal sanctions to be applied. It is incorrect to say that for the legislation to be effective, it is always accompanied by criminal sanctions. For substances related to administrative matters, administrative sanctions are the most appropriate sanctions.[5]

According to P. Nicolai and colleagues, the administrative law enforcement tools contain:[6]

a. Supervision that government organs can carry out compliance with or based on written laws and supervision of decisions that place obligations on individuals
b. Implementation of government sanction authority.

[3] Philipus M. Hadjon et al., *Pengantar Hukum Administrasi Indonesia*, 12th Ed (Yogyakarta: Gadjah Mada University Press, 2015).
[4] E. Utrecht and Mohammad Saleh Djindang, *Pengantar Dalam Hukum Indonesia*, 9th Ed (Jakarta: Ichtiar Baru, 1989).
[5] Wicipto Setiadi, "Sanksi Administratif Sebagai Salah Satu Instrumen Penegakan Hukum Dalam Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 6, no. 4 (2009): 603–14.
[6] Sahya Anggara, *Hukum Administrasi Negara* (Bandung: Pustaka Setia, 2018).

Administrative sanctions are a means of the power of a public law nature that can be applied by the authorities as a reaction to those who do not comply with the norms of administrative law. The purpose of applying administrative sanctions to a violation that occurs is intended as an effort by the administrative body to maintain administrative legal norms that have been stipulated in the form of statutory regulations. Maintaining administrative law norms is a logical consequence of the authority granted by laws and regulations to government agencies to ensure the enforcement of administrative law norms and the implementation of government authority originating from the administrative law rules themselves.[7]

Provisions regarding administrative sanctions are contained within the scope of state administrative law, one of which is contained in the rules regarding licensing. Permits are the most widely used juridical instruments in the scope of administrative law, so they cannot be separated from the application of administrative sanctions. According to Sjachran Basah, a permit is a one-sided state administrative legal act that applies regulations in concrete terms based on the requirements and procedures as stipulated by the provisions of the legislation.[8] According to Bagir Manan, a permit is an agreement from the authorities based on statutory regulations to allow certain actions or actions that are generally prohibited.[9] Basically, the permission system consists of:[10]

1) Prohibition;
2) The approval which is the basis for the exception (permit); and
3) Provisions related to permits.

Permits have various types such as space utilization permits, environmental permits, location permits, building permits, business permits, and so on. In carrying out an activity carried out by the community, both individuals and business entities, three things become the basis for the issuance of a permit, namely spatial planning or space utilization, the environment, and buildings. These three things are a unity that cannot be separated in carrying out an activity. However, in this case, the author will focus on environmental permits because the environment from a theoretical perspective is seen as an absolute part of human life, inseparable from human life itself.[11]

In practice, there are several phenomena of granting Environmental Permits that are contrary to the laws and regulations which are indications of abuse of authority. Every decision and/or action of a government agency or official is contrary to the laws and regulations, it can be included in an act

[7] Sri Nur Hari Susanto, "Karakter Yuridis Sanksi Hukum Administrasi: Suatu Pendekatan Komparasi," *Administrative Law & Governance Journal* 2, no. 1 (2019): 126–42, https://doi.org/https://doi.org/10.14710/alj.v2i1.126-142.
[8] Vera Rimbawani Sushanty, *Hukum Perijinan* (Surabaya: Ubhara Press, 2020).
[9] I Nyoman Gede Remaja, *Hukum Administrasi Negara* (Singaraja: Universitas Panji Sakti, 2017).
[10] Y. Sri Pudyatmoko, *Perizinan: Problem Dan Upaya Pembenahan* (Jakarta: Grasindo, 2009).
[11] Helmi, "Kedudukan Izin Lingkungan Dalam Sistem Perizinan Di Indonesia," *Jurnal Ilmu Hukum* 2, no. 1 (2011): 1–9, https://doi.org/http://dx.doi.org/10.30652/jih.v1i02.1149.

of abuse of authority in the form of exceeding authority. This is stated in the provisions of Article 17 paragraph (2) letter a and Article 18 paragraph 1 letter c of Law Number 30 of 2014 concerning Government Administration (hereinafter written as AP Law).

In practice, administrative sanctions are rarely applied to state administration agencies or officials who have taken actions that are contrary to the laws and regulations and the General Principles of Good Governance (GPGG) and have committed acts of abuse of authority, especially in the field of licensing. Sanctions are often given in the form of criminal sanctions, while the law regulates the imposition of administrative sanctions on government agencies/officials who commit administrative violations. Based on Article 17 of the AP Law, stipulates that the prohibition of abuse of authority can be subject to severe administrative sanctions. Furthermore, Article 81 paragraph (3) of the AP Law mentions severe administrative sanctions in the form of:

a. Permanent termination by obtaining financial rights and other facilities
b. Permanent termination without obtaining financial rights and other facilities;
c. Permanent dismissal by obtaining financial rights and other facilities as well as being published in the mass media; or
d. Permanent dismissal without obtaining financial rights and other facilities as well as being published in the mass media.

B. Identified Problems

Based on the explanation above, the problem that can be drawn in writing this article is how to determine the administration of sanctions to government officials who commit acts of abuse of authority in the field of environmental licensing?

C. Research Methods

The approach method used in this research is normative juridical, namely legal research carried out by examining library materials which are secondary data and also known as library law research.[12] The principle of the normative juridical approach is to find problems and then lead to problem identification and finally, problem-solving is obtained. The research specifications used are descriptive analytical which aims to describe accurately.[13] This research was conducted using the Library Research stage, which is a data collection technique obtained by examining secondary data sources using legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials.[14] The primary legal material used is the laws and regulations related to this research. Secondary

[12] Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).
[13] Bachtiar, *Metode Penelitian Hukum* (Tangerang Selatan: UNPAM Press, 2018).
[14] Ibid.

legal materials were used, namely books, scientific papers, articles, journals, and other types of writing related to this research. Tertiary legal materials were used, namely legal dictionaries or translation dictionaries, mass media, and other articles both in the physical and online form related to this research.

D. Research Findings and Discussions

1. Determination of Administrative Sanctions to Government Officials Committing Acts of Abuse of Authority in the Field of Environmental Licensing

In a state of law, supervision of government actions is intended so that the government carries out its activities by legal norms or as a preventive measure. In addition, supervision is intended to return to the situation before the occurrence of violations of legal norms, as a repressive measure. In addition to supervision, other means of law enforcement are sanctions. Sanctions are an important part of every statutory regulation. J.B.J.M. Ten Berge stated that sanctions are the core of administrative law enforcement. Sanctions are placed at the end of each rule.[15]

Administrative sanctions are means of power according to public law that can be applied by state administrative bodies or positions as a reaction to those who do not comply with the norms of state administrative law.[16] J.J. Oostenbrink said sanctions in administrative law, namely "*a tool of power that is the public law that can be used by the government as a reaction to non-compliance with obligations contained in the norms of state administrative law*".[17] Based on this definition, there are four elements of sanctions in state administrative law, namely instruments of power, public law, used by the government, and as a reaction to non-compliance.[18]

Sanctions have several functions, namely:[19]

a. Repressive functions, namely functions that have the aim of causing the effect of suffering as a reward for deviant behavior;
b. Preventive functions, namely functions that have the aim of preventing violations of the law; and
c. The function of restitution/repair is a function that has the aim of repairing the damage and restoring it to its original state before the occurrence of the violation or placing it in a situation that is by the law.

[15] Anggara, *Hukum Administrasi Negara*.
[16] Indroharto, *Usaha Memahami Undang-Undang Tentang Peradilan Tata Usaha Negara* (Jakarta: Pustaka Sinar Harapan, 1993).
[17] Anggara, *Hukum Administrasi Negara*.
[18] Susanto, "Karakter Yuridis Sanksi Hukum Administrasi: Suatu Pendekatan Komparasi."
[19] Ibid.

The character of administrative sanctions is the granting of independent authority (*vrije bevoegdheid*), not depending on other organs or in other words government bodies and/or officials are given exclusive authority to enforce administrative legal norms without relying on other institutions such as courts.[20]

In administrative law, there are two types of sanctions, namely reparatory sanctions and punitive sanctions. Reparatory sanctions or sanctions are applied as a reaction to the violation of norms, which are aimed at returning to their original condition or placing it in a legal situation (*legale situation*). In other words, returning to its original state before the occurrence of a violation, while punitive sanctions are sanctions that are solely intended to give punishment (*straffen*) to someone. Examples of reparatory sanctions are government coercion (*bestuursdwang*) and imposition of forced money (*dwangsom*), while examples of punitive sanctions are administrative fines (*bestuursfoto*).[21]

There are other sanctions that J.B.J.M. Ten Berge referred to as regressive sanctions (*regressieve sancties*), namely sanctions that are applied as a reaction to non-compliance with the provisions contained in the issued decree. This sanction is aimed at the original legal situation, before the issuance of the decision. Examples of regressive sanctions are withdrawals, amendments, and delays of a provision. In terms of the purpose of applying the sanctions, these regressive sanctions are not so different from reparatory sanctions. Reparatory sanctions are imposed on violations of administrative law norms in general, while regressive sanctions are only imposed on violations of the provisions contained in the provisions.[22]

According to Philipus M. Hadjon, several forms of sanctions known in administrative law include:[23]

1) *Bestuursdwang* (government coercion), namely the authority to at the expense of the violators to get rid of, prevent, carry out, or return to their original state what is contrary to (certain statutory provisions) that have been or are being held, made or placed, cultivated, neglected (abandoned), damaged or taken.
2) Withdrawal of decisions (favorable provisions, such as; permits, payments, subsidies).
3) Imposition of administrative fines.
4) The imposition of forced money by the government (*bestuur dwangsom*), serves as a substitute for government

[20] Setiadi, "Sanksi Administratif Sebagai Salah Satu Instrumen Penegakan Hukum Dalam Peraturan Perundang-Undangan."
[21] Anggara, *Hukum Administrasi Negara*.
[22] Ibid.
[23] Amelia M. K. Panambunan, "Penerapan Sanksi Administratif Dalam Penegakan Hukum Lingkungan Di Indonesia," *Lex Administratum* 4, no. 2 (2016): 93–101.

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Website : https://journal.uib.ac.id/index.0hp/jlpt | E-ISSN : 2541-3139
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coercion which is practically difficult to implement or is seen as too heavy a sanction.

Mechanisms for implementing administrative sanctions, including:[24]

a. Gradually

The application of administrative sanctions is carried out in stages, namely the application of sanctions that are preceded by light administrative sanctions to the heaviest sanctions. If the written warning is not complied with, the application of more severe administrative sanctions will be increased, namely government coercion or permit suspension. If government coercion or permit suspension is not adhered to, an even more severe sanction will be applied, namely the revocation of the permit.

b. Free (not incremental)

Free application of administrative sanctions, namely the flexibility for officials authorized to impose sanctions to determine the choice of types of sanctions based on the level of violations committed by the person in charge of the business and or activity. If the violation committed by the person in charge of the business and/or activity has caused pollution and/or damage to the environment, the government may immediately be subject to coercive sanctions. Furthermore, if the administrative sanctions imposed by the government are not carried out, they will be subject to sanctions for revocation of permits without being preceded by a written warning.

c. Cumulative

The cumulative application of administrative sanctions consists of internal cumulative and external cumulative. Internal cumulative is the application of sanctions carried out by combining several types of administrative sanctions for one violation. For example, the government's coercive sanctions are combined with the suspension of permits. External cumulative is the application of sanctions carried out by combining the application of one type of administrative sanction with the application of other sanctions, such as criminal sanctions.

Provisions regarding administrative sanctions are contained within the scope of state administrative law, one of which is contained in the rules regarding licensing. Permits are the most widely used juridical instruments in the scope of administrative law, so they cannot

[24] Ibid.

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be separated from the application of administrative sanctions. The purposes of licensing are:[25]

a. Desire to direct (control) certain activities;
b. Prevent harm from the environment;
c. The desire to protect certain objects;
d. Willing to share objects and resources that are few or limited in number; and
e. Guidance by selecting certain people and activities (permit applicants must meet certain conditions).

Therefore, even though the permit is a decision that only applies to the parties involved in the decision, the general rules regarding related permits still apply and must be obeyed to enforce compliance, and sanctions are applied for those who violate it.

One of the fields that has the most influence on human survival is the environment because the environment is an absolute part of human life and cannot be separated from human life itself. Therefore, in order to preserve the environment so that it is not damaged and natural resources become depleted, one controlling instrument is needed to protect the environment, namely environmental permits. The purpose of an environmental permit is to provide sustainable and sustainable environmental protection and to increase efforts to control businesses and/or activities that have a negative impact on the environment. In addition, environmental permits are one of the environmental instruments that are closely related to administrative sanctions. The regulation and application of administrative sanctions in environmental cases have a very important role in preventing and overcoming environmental pollution.

Based on the above provisions, administrative law enforcement in environmental law is also carried out both preventively and repressively. Preventive enforcement of administrative law in environmental law through supervision. The supervision carried out is in the form of an environmental permit because with a permit all activities to be carried out must meet the requirements, go through procedures, and supervise both document completeness and come directly to the field. repressive enforcement of administrative law in environmental law through the application of administrative sanctions. Without the application of administrative sanctions, regulations are just writings that have no meaning that can be violated by anyone because they do not have coercive power the supervision and application of administrative sanctions aim to achieve public obedience to administrative legal norms.

The types of administrative sanctions in environmental law enforcement are regulated in the amendment to Article 82 C of the PPLH Law[26] in the CK Law[27] which consists of:

[25] Siti Kotijah, *Hukum Perizinan: Online Single Submission (OSS)* (Samarinda: MFA, 2020).

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Website : https://journal.uib.ac.id/index.0hp/jlpt | E-ISSN : 2541-3139
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a. Written warning
b. Government coercion
c. administrative fine
d. Freezing of business licenses, and/or
e. Revocation of business license.

The application of administrative sanctions in the PPLH Law is aimed at anyone who does not have or violates/does not comply with the provisions of business licensing or environmental approvals, or does not comply with the provisions of laws and regulations in the field of environmental protection and management. The application of administrative sanctions in the enforcement of environmental law can be carried out gradually or freely. The application of administrative sanctions freely or directly can be applied if the violations committed pose a very serious threat to humans and the environment, the impact is greater and wider if the pollution/destruction is not immediately stopped, and/or causes greater losses to the environment. if not immediately stop the pollution and/or destruction. This free application of administrative sanctions is in the form of government coercion so that the agency or official authorized to provide sanctions can impose government coercion sanctions without giving a written warning first.

The application of administrative sanctions in the environmental field above contains all kinds of administrative sanctions, namely punitive sanctions, reparatory sanctions, and regressive sanctions. These sanctions are given to violators of the licensing provisions. However, there is no administrative sanction arrangement against the government agency or official that issues the permit. If it is found to the contrary that a government agency or official violates the provisions in making licensing decisions in environmental-related fields, then the PPLH Law does not regulate this matter. There are no administrative sanctions or criminal sanctions regulated in the PPLH Law and Government Regulation Number 22 of 2021 regarding violations in granting permits by government agencies or officials.

Even though administrative sanctions are the authority of a government agency or official that can be applied directly, it does not mean that the government agency or official itself cannot be subject to administrative sanctions. In accordance with the concept of a state of law which requires that every action from the authorities must be based on the law (supremacy of law) whether it is carried out in a legal formulation (normative) or applied behaviorally (empiric) that the law has the highest position.[28] The application of sanctions to government agencies or officials who violate or do not comply with

[26] Law Number 32 of 2009 concerning Environmental Protection and Management.
[27] Law Number 11 of 2020 concerning Job Creation.
[28] Asshiddiqie, *Konstitusi & Konstitusionalisme Indonesia*.

the laws and regulations does not always have to be subject to criminal sanctions.

In accordance with the approach to the scope of the regulatory field, if the scope of the regulatory field is within the scope of the field of state administrative law, then it would be more appropriate to be subject to administrative sanctions, but it is possible if cumulative sanctions are applied. In the event that a government agency or official commits a licensing violation in the form of issuing a permit that is contrary to the laws and regulations, it can be subject to sanctions in the form of administrative sanctions because permits are government instruments within the scope of state administrative law. Provisions regarding sanctions for government agencies or officials are not always regulated in every regulation. legislation in various fields, even more often found criminal sanctions imposed on government agencies or officials when issuing permits that are not in accordance with the provisions of the legislation.

Rules regarding government agencies or officials are regulated separately in other laws and regulations, such as Law Number 30 of 2014 concerning Government Administration (AP Law) and Law Number 5 of 2014 concerning State Civil Apparatus (ASN Law). The AP Law regulates the administration of administrative sanctions in the form of light, medium, and heavy administrative sanctions, while the ASN Law regulates the disciplinary law for Civil Servants (PNS) in the form of mild, moderate, and severe.

Either administrative sanctions or disciplinary penalties can be given if they violate things that have been regulated in the AP Law or the ASN Law. Such is the case with violations in the issuance of environmental permits by authorized government officials that are contrary to regulations in the field of environmental protection and management. The granting of an environmental permit is declared contrary to the laws and regulations if the permit is in substance, procedural, or granted by an unauthorized body or official.

In the event that a government agency or official violates the provisions of the legislation, it means that it can be an indication of an act of abuse of authority because the form of the act of abuse of authority is in the form of exceeding authority, mixing authority, and being arbitrary. One of the criteria for abuse of authority in the form of exceeding authority is that an action or decision issued by a government agency or official is contrary to the laws and regulations. Thus, the act is an indicator of an act of abuse of authority.

Indicators of abuse of authority in the field of environmental licensing, namely:[29]

[29] Zahra Malinda Putri, Dewi Kania Sugiharti, and Zainal Muttaqin, "Indikator Tindak Penyalahgunaan Wewenang Di Bidang Perizinan Lingkungan Hidup Berdasarkan Hukum Positif Di Indonesia," *Jurnal Juristic* 3, no. 2 (2022): 171–88, https://doi.org/http://dx.doi.org/10.35973/jrs.v3i02.3103.

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1. Authority

   In granting an environmental permit or environmental approval, it must be based on the authority granted by laws and regulations related to environmental protection and management. If a government agency or official gives an environmental permit/approval without the authority of the legislation, the action is said to be an act without authority. If a government agency or official has the authority given to him/her to give a permit/or approval but the act of granting the permit/approval deviates from the purpose for which the authority was granted, then the action is said to be an act of abuse of authority.

2. Purpose of Environmental Permit/Approval

   The purpose of granting the authority to issue an environmental permit/approval is to ensure harmony between economic interests for the welfare of citizens and to ensure environmental sustainability so that environmental damage and pollution do not occur. If the central government and local governments in granting environmental permits/approvals. but it causes environmental damage so that the community suffers losses that have an impact on the economy such as loss of livelihood, the permit/approval has been granted deviating from the intent and purpose for which the authority is given. In addition to deviating from the intent and purpose of granting the authority for environmental permits/approvals, such actions also include actions that are contrary to the public interest (harming the community) or to benefit the interests of other parties (the party obtaining the permit).

3. Legislation

   A decision if it contradicts the substance, procedure, or is not given by an authorized body or official is said to be a decision that is contrary to the laws and regulations. If in granting an environmental permit/approval there is one element that is violated, whether it is an element of substance, procedure or authority, then the decision is said to be invalid and contrary to the laws and regulations. Therefore, the actions of government agencies or officials who issue environmental permits/approvals that are contrary to the laws and regulations are included in acts of abuse of authority (as stated in Article 18 paragraph (1) letter c of the AP Law). In addition, these actions also include acts of abuse of procedures that should be used to

achieve certain goals, but have used other procedures to be carried out.

The existence of these indicators means that government agencies or officials who do these things are indicated to have abused their authority in the field of environmental licensing and must be subject to sanctions in accordance with applicable laws and regulations. The agency authorized to determine whether or not there is an element of abuse of authority is the State Administrative Court whose procedure is carried out after the supervision carried out by the Government Internal Audit Apparatus (GIAA).[30]

In practice, acts of government agencies or officials who are considered as acts of abuse of authority by GIAA are actions that cause state losses, especially in the licensing sector, while acts of abuse of authority are not only in the form of things that cause state losses. In Article 20 paragraph (2) of the AP Law, the results of supervision of acts of abuse of authority are in the form of no errors, administrative errors, or administrative errors that cause state financial losses. Thus, the abuse of authority regulated in the AP Law is interpreted as an administrative error.

If an act of abuse of authority is found, the reference that has been used to impose administrative sanctions uses Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. (PP Discipline of Civil Servants) because in PP Discipline of Civil Servants the prohibition on abusing authority is a form of serious violation of employee discipline.[31] Thus, the administration of administrative sanctions in practice still uses the PP Discipline of Civil Servants which is the implementing rule of Law Number 5 of 2014 concerning State Civil Apparatus (ASN Law) instead of using PP. 48 of 2016 which is the implementing rule of the AP Law.

This is also a factor that influences GIAA in interpreting and assessing acts of abuse of authority. PP Discipline of Civil Servants is a substitute for Government Regulation Number 53 of 2010 concerning Discipline of Civil Servants (PP 53 of 2010). In PP 53 of 2010 also regulates the prohibition of abusing authority by civil servants which is regulated in Article 4 point 1. Neither PP 53 of 2010 nor PP of civil servants discipline does not explicitly regulate the meaning and/or criteria for abusing authority, but only contained in the explanation of the regulations.

Elucidation of Article 4 point 1 PP 53 of 2010 states that what is meant by abusing authority is using one's authority to do something or not to do something for personal interests or the interests of other parties that are not in accordance with the purpose of granting such

[30] Article 20 & 21 of Law Number 30 of 2014 concerning Government Administration.
[31] Mirza Sahputra and Husniati, "Implementasi Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan Terkait Pemberantasan Korupsi," *Jurnal Transformasi Administrasi* 11, no. 1 (2021): 80–94, https://doi.org/https://doi.org/10.56196/jta.v11i01.181.

authority. In addition, after the issuance of the PP Discipline of Civil Servants, there was a change in the interpretation of the act of abusing authority. In the Elucidation of Article 5 letter a PP Discipline of Civil Servants says that what is meant by abusing authority includes actions exceeding authority, mixing authority, and/or acting arbitrarily. The scope of abuse of authority includes the act of doing something or not doing something for personal interests or the interests of other parties that are not in accordance with the purpose of granting the authority.

The existence of several regulations regarding acts of abuse of authority makes APIP's weak competence a major factor causing the non-optimal implementation of AP Law against acts of abuse of authority. This can be seen from the imposition of administrative sanctions on government officials who abuse their authority should use Government Regulation Number 48 of 2016 concerning Procedures for Imposing Administrative Sanctions to Government Officials which is a derivative of the AP Law. However, regarding the examination, if there are findings of abuse of authority, the reference that has been used by APIP to impose administrative sanctions is still using the PP Disciplinary Civil servants because in the PP Discipline of Civil Servants regarding the prohibition of abusing authority is a form of serious violation of employee discipline.

The authority to administer business licensing rests with the central government and DPMPTSP (formerly BPMPTSP).[32] In this case, if the DPMPTSP commits an act of abuse of authority in granting a business license, it can be subject to sanctions in the form of severe disciplinary penalties because the Head of DPMPTSP as the holder of the authority to issue business permits is an ASN who is a high-ranking pratama official (equivalent to echelon II). Although DPMPTSP is an ASN, DPMPTSP is also included in government agencies or officials who carry out government functions so they should be subject to administrative sanctions as regulated in the AP Law.

Furthermore, if the central government commits an act of abuse of authority, it cannot be subject to disciplinary sanctions because the central government includes state officials and civil service officials (PPK). PPK is an official who has the authority to determine the appointment, transfer, and dismissal of ASN employees and the development of ASN management in government agencies in accordance with the provisions of laws and regulations.[33] In addition, the President and PPK are parties with the authority to give punishment to officials who occupy positions under them.

Likewise with abuse of authority in the field of environmental licensing. In Article 1 number 35 of the PPLH Law in the amendment

[32] Article 3, 4, & 5 of Government Regulations Number 6 of 2021.
[33] Government Regulation Number 11 of 2017 concerning Management of Civil Servants.

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to the CK Law that environmental approval is given by the central government or local government. The central government is the President of the Republic of Indonesia who holds the power of the state government of the Republic of Indonesia who is assisted by the Vice President and the Minister, while the regional government is the regional head as an element of the Regional Government organizer who leads the implementation of government affairs which are the authority of the autonomous region, such as the Governor, Regent/Mayor. Based on these provisions, it will be irrelevant if there is abuse in the field of environmental permits applying disciplinary sanctions for civil servants.

E. Conclusions

The provision of administrative sanctions against government agencies or officials who commit acts of abuse of authority regulated in the AP Law, namely in the form of severe administrative sanctions in practice has not been found. In its application, administrative sanctions are applied using the PP Discipline of Civil Servants in the form of disciplinary penalties for civil servants which are the implementing rules of the ASN Law, while administrative sanctions for acts of abuse of authority are regulated in the AP Law and its implementing rules, namely PP No. 48 of 2016 has not been implemented at all. This has an impact on the imposition of administrative sanctions that only apply to Civil Servants, while the authority to grant environmental permits is given to the Government and regional governments which are not included in Civil Servants but state officials.

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