

# Limitations of Authority of Implementation of Tasks In Running The Local Government Duty

Fitri Wulandari, Danang Teguh Ariwibowo, Azhar Syarif Sanjaya, Nabila Husniyah  
Susanto, Mega Lestari

Faculty of Law, Narotama University Surabaya

E-mail: Vitreewuland@gmail.com

## ABSTRACT

Where constitutional conflicts occur, which is actually a law that prohibits Acting from signing APBD, but a Ministerial Regulation allows Plt to sign APBD. Where there are written rules that leave regulations outside the State Dependency for Governors, Regents and Mayors explaining an authority written by the Acting Minister of Domestic Affairs Article 9 Letter d paragraph 1 Number 74 Year 2016. *That can be signed if obtained approval from the minister in writing which is about the Regional Budget and Regional Regulations on the Organization of Regional Apparatuses.* However, there is a difference wherein that the Finance Law no 17 of 2003 is different from the Minister of Home Affairs Regulation 74 of 2016. Bring the contents of the Financial Act Number 17 of 2003 to state the written financial management authority that obtains power from the president, which is meant towards the regional head. *Whereas where the Head of Province, regent, and mayor who are regional government officials can work on regional finances and represent regional officials in the ownership of separated regional assets.* The contents are the rules written in article 6 letter c of Act 17 of 2003 concerning finance. Therefore, where the Permendagri's position is under the Act. If the APBD can be signed by an Acting Officer, then it can be sued and may be invalid. Where, there are provisions in the signing of the Regional Budget which is legitimate or is a Governor or Acting Actor, not an Acting Actor. Although where Permendagri Number 74 of 2016 can make APBD signed by the Acting Act, the financial law states that the Governor or Acting Actor can sign the APBD except Acting.

**Keywords:** Constitutional Conflict, Governor, PT, Authority

## 1. INTRODUCTION

In this case Indonesia is a unitary state with the principle of decentralization in the administration, the freedom to cover all aspects of life in the management of regional autonomy. Where in this case regional autonomy which is a self-sufficient region in the initiative of the level of independence and the derivative of the decentralization phase that was held that the higher the phase of decentralization also increased also in the phase of regional autonomy (Negara & Perkantoran, 1961). The simultaneous formation of regional autonomy which is the birth of economic status based on the aspirations or hopes of Indonesia that has the ideals and rational conditions of Indonesian society in rational regions / regions of Indonesia.

Aspiration can be achieved by the implementation of decentralization transformed into an autonomous region. Therefore, where the legal community unit has the authority to regulate what is regional autonomy and by taking into account the aspirations of the community according to the community's expectations initiative (Rudianto & Roesli, 2019). Therefore, for the welfare of the community, it can solve various problems. Contained in

accordance with the provisions in which the contents of the government get the right to autonomy (Zhong, 2003). And with the emergence of an APBD problem is not a new thing, because in this case where the Minister of the Interior states that in terms of signing the APBD Acting (the Governor) can sign or sign the APBD. Where it happened during the period of Mr. Basuki Tjahya Purnama served as Governor, who at the time was on leave outside the responsibility. That here is the spotlight of Basuki Tjahya Purnama who considers that there is a Constitutional conflict with the Financial Law (Stoker, 1991).

Where the intention of the Minister of Home Affairs here is with the aim that the performance in the vacancy of the position led by the regional head (the Governor) can run even if temporarily led by the Plt. Although, it raises the existence of pros and cons in the community, because the Acting Director can sign / sign the actual APBD in the State Finance Law Article 6 Letter c does not regulate the Acting authority. Despite the intention of the Minister of Domestic Affairs himself with the appointment of the Acting area, so that the local government can run (John, 2001). But in view of the fact, the authority of the Task Implementer is limited because the task implementer cannot make a decision that is sacred, so he is afraid that a problem will arise and can hinder a government to the next when lead by the Regional Head for the next period.

By basing an authority led by the executor of the task we must see the existence of clear facts and rules for the executor of the task relating to authority, legal protection, capacity when becoming the executor of the task, and also mistakes when abusing authority as the executor of the task. Because, these problems can be crucial given that many regions will be led by the Task Force when the Kepala area is on leave, especially areas that are held by temporary task implementers. And do not let the implementation of this task arise with the intention of political content in the administration of government, which can be a problem to the next government (Sofyani et al., 2018).

Meanwhile, the Law which contains that the incumbent regional head can re-nominate by taking leave and filling vacancies in the regional head which is temporarily replaced by the Acting Minister by the Minister of Home Affairs in matters of regional head officials governed by article 201 paragraph 2 of Law Number 30 in 2014 and according to also article 34 paragraph 3 of Law Number 30 of 2014 concerning government administration. And there is also where there is a letter decision through the head of BKN No K.26,30 / V.20.3 / 99 of 2016 which explains that the authority of implementing the task in aspects.

In the provisions regarding the authority of the Minister of Home Affairs Regulation No. 74 of 2016, which contradicts Law No. 30 of 2014 which in article 14 paragraph 7 that explains the *Agency and or government officials who obtained authority through the*

*mandate are not authorized to make decisions and or where there are actions that are of a nature strategies that have an impact with a change in legal status on aspects of the organization, budget allocation, and staffing.* Where we see that the executor of the task gets strategic authority after the Minister of Home Affairs signed / agreed that the executor of the task gets that authority even though it also contradicts Article 12 of Law No. 30 of 2014.

Where it should be that the Home Affairs Minister does not give authority which should not exceed the authority to carry out the tasks written in Law No. 30 of 2014. And also its relation to where it can support the continuity and smoothness of the responsibilities of implementing the tasks in the administration of government written Permenkeu No. 98 of 2015 and also the provisions of implementing article 34 paragraph 2 and paragraph 3 Law No. 30 of 2014. That the Implementation of the Tugaas in the circle of the Ministry of Finance has authority derived from the mandate but the implementation of the task of authority is limited by the ministry of finance. Actually, in the limitation of that authority, it has been included in Permenkeu. Based on written No. 98 of 2015, the authority of the task executing authority (Bulkeley & Kern, 2006).

With the underlying basis above, there are a number of issues that are present in the interim while carrying out temporary duties in the government, namely;

1. What underlies the authority of implementing temporary tasks in local government?
2. Can implementing temporary tasks be held accountable for carrying out regional government tasks which are only temporary?

## **2. RESEARCH METHOD**

In this problem that has been formulated, therefore from where in this case the statutory approach (statue approach) is used where this method is actually by way of exploring regulations and laws relating to legal issues . By involving positive legal theories in an approach that is carried out with the literature, references made or indicated only on written rules are necessarily related to positive law (Soemitro, 1990). This writing uses a method approach based on legal sources:

Primary Legal Material; Law Number 17 of 2003, Law Number 23 of 2014, Law Number 30 of 2014 and Minister of Home Affairs Regulation No. 74 of 2016 concerning leave outside dependents the state for governors and deputy governors, regents.

Where this is a normative juridical approach where library research is conducted, usually a jurist usually uses observing, analyzing and acting by examining laws that can be considered in accordance with written legal research. Usually in a study that must be considered on matters that have the principles of law, which relate the concept of law and

the legal basis for this approach by observing legal norms or rules regarding the subject matter.

### 3. RESULTS AND DISCUSSION

What is the basis for the authority to carry out the temporary duties of the regional government? which underlies the basis of the authority of implementing duties of Law Number 23 of 2014 which here explains that the incumbent regional head can re-nominate by taking leave and filling vacant positions in the regional head which is temporarily replaced by the Acting Minister by the Minister of Home Affairs in matters of the regional head official who regulated the article 201 paragraph 2 of Law Number 30 of 2014 and according to also article 34 paragraph 3 of Law Number 30 of 2014 concerning government administration. And also *that where the Head of the Province, regents, and mayors who are local government officials can work on regional finances and represent regional officials in the ownership of separated regional assets*. The contents are the rules written in article 6 letter c of Act 17 of 2003 concerning finance.

Therefore, where the Permendagri's position is under the Act. Where also the Ministry of Finance actually regulates that implementing duties in the financial ministry environment obtain authority sourced from the mandate. The Ministry of Finance also actually limits the authority of executing temporary tasks which as regulated and written based on No 98 of 2015 concerning an authority of executing temporary task officers and the scope of implementing duties are narrower than those of the Minister of Home Affairs. Where this is the authority of implementing the temporary task does not get the authority in terms of making decisions and setting decisions in a strategic nature. A statement in which the ministries here are in line with Law No. 30 of 2014.

Where there are also provisions of Permenkumham No. 1 of 2014 which also pay attention to the provisions regarding the authority of executing temporary task officers. Policies that should not be strategic that is substantial, budget, assessment of the field of workers and other binding policies because it will cause an impact. If we look at where the center of attention here, the Minister of Home Affairs Regulation No. 74 of 2016 should be in line with Law No. 30 of 2014 and the BKN Decree. Because from the explanation above Permenkumham No. 1 of 2014 is in line with Law No. 30 of 2014.

Because the basis of this problem is one of the articles in the ministerial regulation that contradicts Law No. 30 of 2014 as well as BKN Decree which makes implementing duties here have authority broad as the task implementer that was previously set in the invitation. During Permendagri under the status of the Act because the Act has a high position. By knowing the boundaries of the executor of the task that the actual executor of the task can exercise authority which should not cause problems when the regional head is

on leave so as not to cause doubt the head of the region off. So that the budget here does not experience problems. State finance is an activity with a nominal value, including which is achieved, which will normally be carried out during the coming year (Tjandra & SH, 2006).

Where there is an mandate implied in the enactment of Law number 17 of 2003 concerning state finances as stipulated in the provisions of article 23 C. In this law which may cause contact with regional finances intended for governance, as well as for state administration in the field of civil registration. Which causes the extent of a violation of regional leeway in terms of management should this matter requires the rules of law of state administration. For that reason, the part that we must understand is the implementation of regional finances in the administration of the region and also regarding the conduct of *rechthandeling* which is called the government decision on legal actions.

The government also must not forget where there is a legislative process because this process can lead to a new one, namely legitimate, in relation to decisions where every year there is implementation of budget management through regional legal products. The regional government and legislative agreements that are part of the implementation of the regional budget that must be based on the Regional Regulation of the Regional Budget must be in accordance with legislative procedures.

1. In managing regional finance, it must be based on a juridical basis in every regional financial management policy
2. Here, officials here have limitations in authority so that there is no abuse of authority.
3. Officials here must not exceed the authority that should not be his authority.
4. Every community gets fair treatment of regional financial management officials.
5. The existence of coercion in financial management of sanctions that are universal.

This fact has been that in fact the binding of executors of temporary tasks has weak power in politics. Given this case, it can be seen from this case that the actual implementation of the task has authority limits that should not contribute to strategic decisions because that there is written evidence governing the authority limits in rules that have been written even though only temporarily. Basically, in the appointment of implementing temporary tasks, there have been rules that have been established in terms of binding. Where in the qualification of Article 201 paragraph 8 of Law Number 8 of 2015, and also there is Law Number 8 of 2015 of article 201 of paragraph 9 where each content of the article explains that it fills the vacancy of a high leadership position.

When carrying out the task of carrying out their duties here the authority is very limited. Executing duties here is severely restricted by virtue of Government Regulation No. 49/2008 concerning the third amendment regarding election, binding, endorsement and

dismissal of regional heads. In this case the actual implementation of the task is only to continue the wheel / fill the vacancy of the temporary position is not a definitive head of government. But in this case we need to know that it is unclear what underlies that the temporary task implementer can implement the APBD / APBD signing.

In an issue the task implementer can be sued and sanctioned when abusing his authority, based on the abuse of authority by government officials. Where here we see that the one who has authority in signing the APBD is the governor not the executor of the task. People will be able to sue the task implementer, and cause the APBD signed by the task implementer to be invalid and can be sued. Where the executor of the task can be examined with an internal inspection process based on Law number 30 of 2014. If the task performer here has a mandate he can be protected from Law number 30 of 2014. Because he is given the authority of those who gave him the mandate.

If there is an error in abusing his authority as an executor of the task, he may be subject to sanctions by composing the rules written in the rule of law number 30 of 2014 article 81 paragraph 3 which contains; Rights in financial matters and facilities can be dismissed even though, Rights in financial and facility rights cannot and are also dismissed, Dismissal accompanied by obtaining financial rights and facilities and published in the mass media and Dismissal with without getting their rights and also rights and published to themedia massWith the relation to the problem here is also related to the Indonesian economy has been a weakening of the Indonesian economy, the regional budget has experienced its rendeah, which here will become a pillar of Indonesia's problems on the country's economy (Deliarnoor, 2015).

#### **4. CONCLUSION**

That from the explanation of the conclusion we can know from an authority to carry out the task.; In this case we realize that in the implementation of the governor's task implementation, Within the scope of implementing duties appointed by law No. 8 of 2015 article 201 paragraph 8, the purpose of this article is to fill the vacancy of the position of regional head which is a high-level leadership position, We realize that there are also limits to the authority to carry out temporary tasks which fill the vacancy of the governor's position, If where the executor of the task while doing will get sanctions for the executor of the task in carrying out the authority wrong or violate and Actually here the uncertainty or uncertainty of the types of restrictions and rules in carrying out the task of filling vacant positions is temporary and That pelasana can be sued if it makes a mistake or misuses its authority in carrying out the mandated tasks.

#### **Suggestions**





In this issue the task implementers if not immediately addressed. Can be an obstacle in the holding of the regional budget which is very influential in conducting the government economy so that it becomes a big rock. Where the government can make legal certainty that is strong which cannot be made various rules because it will cause overlapping and unclear rules. Therefore, the government can make the implementation of this task a strong legal force, CLEAR, and SPECIAL so that it does not cause a problem now.

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