

Constitutional Compliance Dilemmas: KPU and PTUN Decision Implementation through Siyasa Dusturiyah Lens

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Abstract: This study examines the problematic implementation of the State Administrative Court (PTUN) Decision Number 600/G/SPPU/2023/PTUN.JKT by the General Elections Commission (KPU) from the perspective of Constitutional Law and Administrative Law. The purpose of this study is to determine the reasons for the KPU's reluctance to implement the PTUN Decision and to determine the sanctions for KPU that do not implement the State Administrative Court Decision Number 600/G/SPPU/2023/PTUN.JKT. The type of research used is a literature review with a normative juridical approach, utilizing a qualitative typology, namely the results of searches from literature. The data sources in this study are secondary data sources, using primary legal materials in the form of Law No. 5 of 1986 concerning State Administrative Courts, Law No. 30 of 2014 concerning Government Administration, Law No. 12 of 2011 concerning the Formation of Legislation, PTUN Decision Number 600/G/SPPU/2023/PTUN.JKT, secondary legal materials include data obtained from literature such as reputable/indexed scientific journals and journals related to the issues the author is researching. The research results indicate that the KPU's reluctance to implement PTUN Decision Number 600/G/SPPU/2023/PTUN.JKT is motivated by various factors, including institutional, normative, and political reasons. From an institutional perspective, the KPU experiences confusion regarding the potential overlapping authority with the Constitutional Court and the Elections Supervisory Agency (Bawaslu). The KPU also tends to act as an autonomous institution, not subject to court decisions that conflict with its internal interpretations. Furthermore, the weakness of the PTUN decision execution system, which is still declarative, provides an opportunity for the KPU to evade its legal obligations. Consequently, such actions violate not only administrative law but also institutional ethics and undermine public trust in the independence of election organizers. This study concludes that the KPU's actions are subject to administrative, ethical, and legal sanctions, as well as evaluation by the Ombudsman, as they constitute maladministration. Morally and politically, this non-compliance violates the principles of the rule of law and the supremacy of law, and threatens the legitimacy of electoral democracy.

Keywords: KPU Compliance, State Administrative Court, Constitutional Law, Administrative Law, Judicial Enforcement

Introduction

Indonesia, as a constitutional state affirmed in Article 1 paragraph (3) of the 1945 Constitution, mandates that all government authority be subject to the rule of law. Consequently, judicial power serves as a crucial pillar in upholding legal supremacy through independent judicial institutions. In this context, the State Administrative Court (PTUN) functions as a juridical overseer of actions by government bodies or officials deemed deviant or detrimental to citizens' rights. The primary case under scrutiny is PTUN Decision Number 600/G/SPPU/2023/PTUN.JKT, which ordered the General Elections Commission (KPU) to revoke Decision Number 1563/2023 regarding the Final List of DPD Candidates and to reinstate Irman Gusman as a confirmed candidate from West Sumatra. This decision has gained final and binding status (*inkracht*) and was reaffirmed through an execution order by the Chief Judge of PTUN Jakarta. However, KPU has openly refused implementation, citing compliance with two prior decisions from the Supreme Court and Constitutional Court, thereby disregarding the PTUN Jakarta ruling (Subiyanto, 2012).

From a constitutional law perspective, KPU's refusal constitutes a serious violation of the rule of law principle. Non-compliance with a court decision that has acquired legal force reflects defiance against the judicial system itself. As part of judicial authority, PTUN holds constitutional legitimacy to review and annul state administrative decisions violating legal principles, including justice, legal certainty, and citizen rights protection. The absence of executorial power in PTUN decisions exacerbates this issue. Normatively, Articles 72 and 80 of Law No. 30 of 2014 on Government Administration stipulate administrative sanctions for non-compliant officials. Yet, these sanctions remain indirect, requiring political will from superior authorities for enforcement. This creates a "floating norm" where decisions depend on the willingness of empowered officials (Usman, 2021). Furthermore, Article 116 paragraph (4) of Law No. 51 of 2009 appears insufficient to guarantee PTUN decision execution. This triggers a legal effectiveness crisis that erodes public trust in legal supremacy and judicial institutions. In rule of law theory, court compliance exemplifies civilized governance upholding checks and balances among state branches (Law No. 30 of 2014 on Government Administration (State Gazette RI 2014 No. 292, Explanatory Notes in State Gazette Supplement No. 5601), 2014).

From the *Siyasah Dusturiyah* perspective, government authority execution must adhere to justice (*al-'adl*), trustworthiness (*al-amānah*), and public welfare (*maslahah*). When state officials reject court orders, such actions constitute bureaucratic oppression (*dzalim birokratis*) disrupting harmony between government and people. *Siyasah Dusturiyah* regulates power holders' relations with citizens within moral and shariah accountability frameworks (NurKholbi, 2016). Allah's decree in QS. An-Nisa': 59 explicitly commands Muslims to obey Allah, the Messenger, and *ulil amri* (authorities), while referring disputes to legitimate legal sources. In Indonesia's context as a Muslim-majority nation with Pancasila values rooted in religious principles, these *siyasah* tenets remain relevant for evaluating governance morality. KPU's failure to obey PTUN decisions not only breaches positive law but also wounds ethical values foundational to Islamic governance legitimacy. *Siyasah Dusturiyah* also teaches that state power execution must not contradict shariah justice principles, including administrative law implementation (Rozali, 2019).

Literature Review

Theory of Legislation Formation

The theory of legislation formation constitutes a core component of legal science, addressing the formulation, drafting, and enactment of legal norms within national legal systems. This theory is essential for assessing the validity of legal products. In Indonesia, the process is governed by Law No. 12 of 2011 as amended by Law No. 13 of 2022. Jimly Asshiddiqie emphasizes three key aspects: legal-formal (procedural), legal-substantial (legal substance), and legal-sociological (social acceptance). Regulations must transcend mere political products to reflect Pancasila values and national diversity (Arfiani et al., 2023). Maria Farida distinguishes between formation processes and outcomes, while Bagir Manan defines regulations as general, binding written decisions (Sarinah, 2019). The hierarchy follows Hans Kelsen's

Stufenbau Theory, establishing a tiered norm structure with Article 7 of Law 12/2011 as the normative foundation (Atuk, 2024). Hans Nawiasky categorizes norms into four levels: Staatsfundamentálnorm, Staatsgrundgesetz, Formell Gesetz, and Verordnung & Autonome Satzung. Key principles include non-contradiction of lower norms with higher ones, clarity, authority, effectiveness, and public participation. Article 5 of Law 12/2011 mandates purpose clarity, material suitability, effectiveness, and openness as legislative guidelines.

Theory of the Rule of Law

The rule of law theory forms the cornerstone of modern constitutional systems, requiring all state actions to submit to law rather than arbitrary power. Indonesia enshrines this in Article 1(3) of the 1945 Constitution, declaring Indonesia a legal state that limits state power to ensure justice and citizen rights protection. Derived from nomocracy (nomos = law, cratos = power), the concept evolved through thinkers like Aristotle, Scheltema, and Hans Kelsen (Laritmas & Rosidi, 2024). Core principles encompass legal supremacy, equality before the law, legality, power limitation, independent judiciary, and human rights guarantees. Jimly Asshiddiqie outlines 12 principles, including legal supremacy, equality, legality, power constraints, institutional independence, administrative and constitutional courts, human rights protection, democracy, welfare state (welfare rechtsstaat), transparency, and social control. These link law and democracy, positioning citizens as governance subjects. The International Commission of Jurists adds state obedience to law, individual rights respect, and impartial judiciary. Thus, the rule of law ensures not just rules but substantive justice and civilized democratic participation (Ismoyo et al., 2025).

Theory of Constitutional Law

Constitutional law theory governs state structures, functions, inter-institutional relations, and state-citizen interactions. It regulates government systems, state forms, power division, and citizen rights/duties. Academically, it spans narrow (verfassungsrecht: constitution-focused) and broad (staatsrecht in ruimere zin: including administrative law) interpretations (Penerapannya et al., 1945). Scholars like Van Vollenhoven, Logemann, and Paton George Whitecross highlight state organ regulation, power distribution, and functional relations. Constitutional law encompasses both written norms (wet) and dynamic theory (lehre) for static (staat in rust) and dynamic (staat in beweging) states. Its scope includes government forms/systems, decentralization, state executor organization, political rights, and ideological foundations like Pancasila. It controls state institutions to uphold legal supremacy, democracy, and power limits, providing normative grounds for assessing actions like court decision compliance. Non-compliance signals rule of law violations and constitutional instability, making constitutional law both theoretical foundation and practical enforcer.

Theory of *Siyasah Dusturiyah*

Siyasah Dusturiyah, a branch of fiqh siyasah, addresses state legislation, constitutions, legislative mechanisms, and Islamic democratic/shura principles. Beyond formal law, it governs ruler-citizen relations grounded in Islamic values of justice, welfare, and shariah compliance. Muhammad Iqbal views it as constitutional state structuring, law formation, and reciprocal government-citizen relations within shariah. J. Suyuthi Pulungan defines it as head-of-state policies toward citizens, fundamental for Islamic states to harmonize rulers and people. Prof. H.A. Djazuli focuses on leader-citizen and institutional-society relations for public welfare via religious principles.

Its scope divides into universal evidences (kulliy dalil: Qur'an, hadith, maqasid shariah, dynamic Islamic teachings) and contextual rules (practical kaidah: adaptable ijtihad). Sectorally, it spans tasyri'iyyah (legislative: law formation, ahlul halli wal 'aqdi, interfaith relations), tanfidiyyah (executive: imam, wazir, apparatus), qadha'iyyah (judicial: courts, enforcement), and idariyyah (administrative: bureaucracy). Sources include Qur'an (immutable foundation), Sunnah (explanatory norms via transmission), Ijma' (scholarly consensus via consultation), and Qiyas (legal analogy for contemporary issues). (Nabilah et al., 2025)

Theory of Administrative Sanctions

Administrative sanctions ensure compliance with state administrative law, maintaining order, legal certainty, and rights protection from state actors. Officials impose them via authority (Yudistira & Ramadhan, 2023). Article 72(1) of Law No. 30/2014 mandates execution of final court decisions (*inkracht*); Article 80(2) details non-compliance sanctions (Usman, 2021). Unlike criminal sanctions (judicial), administrative ones apply directly by agencies. PTUN assesses administrative decision legality; flawed decisions require revocation, with non-compliance triggering sanctions (Sutrisno et al., 2020). J.B.J.M. ten Berge views sanctions as administrative law effectiveness guarantors; JJ. Oosternbrink notes direct imposition without courts, arising from government-citizen legal relations (Mulyana, 2024). Types include *reparatif* (restorative: *bestuursdwang*, *dwangsom*), *punitif* (punitive: fines), and *regresif* (response to non-execution of valid decisions) (Ghufran Syahputera Walla, Hendrik Salmon, 2021).

Theory of State Administrative Court (PTUN)

PTUN provides judicial control over government actions. Sudikno Mertokusumo defines adjudication as judges' dispute resolution duties; "*peradilan*" (justice) encompasses fair processes beyond institutions (Mertokusumo in Hamdie Abwey et al., 2023). Riawan Tjandra sees PTUN as comprehensive judicial functions across levels supported by court personnel for administrative justice (in Hamdie Abwey et al., 2023). Prajudi Atmosudirdjo views it as resolutions for challenged administrative actions by citizens, entities, or inter-agencies, correcting abuses (Abwae Bey Hamdie et al., 2023). PTUN monitors executive power while protecting citizens from arbitrary administration.

Method

This study employs a library research method with a normative juridical approach. The literature examined extends beyond books to include documentation materials, magazines, journals, and newspapers. This library research focuses on identifying various theories, laws, evidences, principles, arguments, concepts, and related elements used to analyze and resolve the research problem. The selection of the normative juridical method is grounded in the utilization of library materials to explore research techniques and address the research questions comprehensively.

Results and Discussion

KPU's Reluctance to Implement PTUN Decision No. 600/G/SPPU/2023/PTUN.JKT

The General Elections Commission's (KPU) reluctance to execute PTUN Decision No. 600/G/SPPU/2023/PTUN.JKT transcends mere administrative technicalities, revealing profound issues within Indonesia's legal and democratic framework. As a constitutionally mandated independent body responsible for elections, KPU remains bound by rule of law principles, requiring unconditional compliance with final, binding court decisions (Ramdhani, 2024). Yet, KPU's passive stance demonstrates resistance to legal supremacy and neglects checks and balances. This reluctance stems from perceived conflict with Constitutional Court Decision No. 12/PUU-XXI/2023, mandating a five-year waiting period for former convicts before re-candidacy, and election ethics rejecting Irman Gusman's candidacy due to corruption history (PUTUSAN Nomor 12/PUU-XXI/2023, 2023; Chalik, 2024).

Key findings reveal that the Jakarta PTUN ordered KPU to reinstate Irman Gusman as DPD RI candidate from West Sumatra, with Article 471(8) of Law No. 7/2017 defining such decisions as final and executable within 3 working days (Febriani Wardoyo, 2018). Despite this, KPU refused citing Constitutional Court precedence and ethics. PTUN responded with an early January 2024 execution writ, ignored by KPU on normative/constitutional grounds, creating legal uncertainty and jurisdictional tensions between administrative courts and election bodies (Fizria Cahya & Suryono, 2024; Raden, 2024).

From constitutional law, KPU's delay/disregard wounds Article 1(3) 1945 Constitution's rule of law (Zefri, 2024). KPU lacks authority to reinterpret judicial decisions, exceeding administrative roles and threatening separation of powers (Widiatmika, 2025). This violates Irman Gusman's candidacy rights and undermines election legitimacy through breaches of legal supremacy, Article 115 Law No. 5/1986 mandating final PTUN execution, and Article 471(8) Law No. 7/2017 requiring 3-day compliance (Mahda et al., 2025; Marbun, 1986; UU No.7 2019 Pemilu Serentak, 2017). In *Siyasah Dusturiyah*, KPU's refusal constitutes *khiyanah* (breach of public trust), violating Islamic governance values by rejecting *ulil amri bil haq*, contradicting *amanah*, justice, and legal obedience foundational to Islamic *siyasah*. KPU betrays its public mandate, wounding democratic-Islamic justice ethos where leaders must execute prevailing law and respect fair judgments (Romli SA, 2014). PTUN Decision No. 600/G/SPPU/2023/PTUN.JKT's final/binding nature renders KPU's failure a state administrative law violation. Law No. 7/2017 lacks explicit sanctions, creating legal vacuum; PTUN execution per Article 116 Law No. 5/1986 remains declarative without direct threats for independent KPU (UU No.7 2019 Pemilu Serentak, 2017; Huda, 2016; Rishan, 2024). DKPP oversight inadequately responds despite ethics violation authority for severe sanctions (Sulistiyo et al., 2025; Isra, 2013).

Theoretical sanctions encompass administrative (reprimands, demotions per Government Administration Law), ethical (DKPP integrity breaches), juridical (PTUN violation records), maladministration (Ombudsman AUPB recommendations), and socio-political (legitimacy loss) categories (Anam, 2024; Lius, 2024; Pasulu, 2024). Constitutionally, KPU wounds Article 1(3) and Article 24C 1945 Constitution mandating judicial respect, demanding legal reform absent explicit collective sanctions (Yuanitasari et al., 2025). In *Siyasah Dusturiyah*, this constitutes *dzalim birokratis* violating *al-adl* (proportional justice) and *al-amanah* (responsible trust), betraying public/spiritual mandate (Jahar, 2014).

Conclusion

The analysis reveals that KPU's reluctance to implement PTUN Decision No. 600/G/SPPU/2023/PTUN.JKT stems from normative, institutional, and political factors. Institutionally, KPU hesitates due to perceived authority overlaps with the Constitutional Court and Bawaslu, creating interpretive confusion. KPU positions itself as autonomous, resisting court decisions conflicting with internal election rule interpretations. The declarative nature of PTUN execution systems provides procedural loopholes for delay. This reluctance constitutes disregard for rule of law fundamentals, where public officials must obey final court decisions. KPU's actions violate administrative law, institutional ethics, and trigger socio-political sanctions, eroding public trust in election organizers' independence and integrity.

In the Irman Gusman case, KPU's non-compliance generates serious legal, ethical, and governance implications. Applicable sanctions include administrative penalties under Articles 80-81 Law No. 30/2014 on Government Administration, ethical sanctions by DKPP per Law No. 7/2017 on Elections, and juridical measures via Article 116 Law No. 5/1986 on State Administrative Courts. Ombudsman RI evaluation addresses maladministration through legal neglect and authority abuse. Socio-politically and morally, KPU loses democratic legitimacy by disregarding legal supremacy. All available sanctions must be proportionally enforced to uphold law, protect citizens' political rights, and deter public institutions from ignoring binding judicial decisions.

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Conflict of Interest

This article has no conflicts of interest.

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