

Government Instruments

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Info Article	Abstract
Article History Received : 2020-09-07 Revised: 2020-09-17 Published: 2020-09-30	<p>Government instruments are fundamental elements in the implementation of government functions based on the principle of the rule of law (<i>rechtsstaat</i>). In the practice of State Administrative Law, every action, decision, or policy taken by public authorities must be based on valid legal instruments. This is crucial to prevent abuse of authority (<i>detournement de pouvoir</i>) and arbitrary actions that have the potential to violate the constitutional rights of citizens. This paper is motivated by the need for a deep understanding of the transformation of government legal instruments in the increasingly complex modern era, especially in maintaining a balance between bureaucratic effectiveness and legal protection for the community. This research uses a normative juridical method by integrating a statute approach and a conceptual approach. The results of the study indicate that government instruments which include laws and regulations (<i>regeling</i>), state administrative decisions (<i>beschikking</i>), policy regulations (<i>beleidsregel</i>), discretion, and factual actions (<i>feitelijke handelingen</i>) have a strategic role in the dynamics of national law. These instruments function as legal means to guarantee legal certainty and provide protection mechanisms for citizens through means of objections and lawsuits. The proper arrangement of instruments is crucial for the realization of accountable, transparent governance, and in accordance with the General Principles of Good Governance (AAUPB). This study concludes that strengthening legal control over government instruments is an absolute prerequisite for preventing maladministration and strengthening the pillars of democracy.</p>
Keywords: <i>Government Instruments;</i> <i>State Administrative Law;</i> <i>Government Authority;</i> <i>Principle of Legality; Rule of Law</i>	

I. INTRODUCTION

As a nation based on the rule of law, Indonesia places law as the primary foundation for governance. Every government action and policy must be based on legitimate authority and implemented through appropriate legal instruments. In the context of State Administrative Law, government instruments serve as a fundamental element that bridges the gap between government authority and its implementation in the practice of governance.

Government instruments serve as tools for the government to carry out its duties and as control mechanisms to prevent arbitrary exercise of power. Through these instruments, the government can establish general norms, issue concrete and individual decisions, and take administrative actions that directly impact the rights and obligations of citizens. Therefore, government instruments have significant legal implications, particularly in the relationship between the government and citizens.

In practice, the use of government instruments

often gives rise to legal issues, whether due to abuse of authority, non-compliance with the principle of legality, or violations of general principles of good governance. This situation requires an in-depth study of the concepts and characteristics of government instruments for their proper understanding within the framework of State Administrative Law. Therefore, a discussion of government instruments is relevant and important to analyze in order to strengthen the implementation of law-based governance and oriented towards protecting citizen rights.

II. RESEARCH METHODS

This research employs a normative juridical research method, focusing on the study of legal norms governing government instruments in State Administrative Law. The approaches employed include a statutory and a conceptual approach. The statutory approach examines laws and regulations relating to government authority and instruments, while the conceptual approach examines relevant

state administrative law doctrines and theories. MaterialThe law used in this study consists of primary legal materials in the form of statutory regulations, secondary legal materials in the form of textbooks, scientific journals, and opinions of state administrative law experts, and tertiary legal materials in the form of legal dictionaries and legal encyclopedias. The legal materials were collected through literature studies. Furthermore, these legal materials were analyzed qualitatively using descriptive-analytical methods to gain a systematic understanding of the concepts, types, and functions of government instruments in governance.

III. RESULTS AND DISCUSSION

A. Government Instruments from the Perspective of State Administrative Law

In a state based on the rule of law, governance is inextricably linked to the use of legal instruments as the basis for governmental action. The principle of the rule of law requires that every governmental action be based on legitimate authority and be implemented through legally recognized instruments. In the context of State Administrative Law, governmental instruments are the legal means used by officials or government agencies to carry out governmental functions in order to regulate, manage, and serve the public interest (Ridwan, 2018). Governmental instruments are essentially concrete manifestations of governmental authority. This authority is derived from statutory regulations and is granted to governmental organs to act within the realm of public law. Without governmental instruments, the authority held by the government cannot be exercised effectively and legally. Therefore, governmental instruments have a fundamental function as a link between abstract authority and concrete governmental action.

InFrom the perspective of State Administrative Law, government instruments are not only understood as written legal products, but also encompass government actions that have legal consequences. This aligns with the view that administrative law regulates how the government exercises its authority and how legal relations

between the government and citizens are formed (Indroharto, 2000). Government instruments thus become the primary tool for the government to achieve state goals and serve as a means of limiting power to prevent abuse.

In general, government instruments can be divided into several main forms. First, laws and regulations created by the government serve as general and abstract instruments. These regulations serve to regulate society at large and serve as guidelines for subsequent government actions. In this context, the government acts as a norm-maker (regelgever) that establishes legal rules to regulate social life (Asshiddiqie, 2017). Second, state administrative decisions serve as concrete, individual, and final instruments. These decisions are issued by state administrative officials in the exercise of specific authority, such as granting permits, establishing rights, or imposing administrative sanctions. State administrative decisions have a direct impact on specific legal subjects and therefore must meet the requirements for valid state administrative decisions, both in terms of authority, procedure, and substance (Hadjon et al., 2010). Third, government policy or discretion is used when laws and regulations do not provide clear or complete regulations. Discretion is an important instrument to ensure the smooth running of government, especially in the face of concrete conditions that require swift action. However, the use of discretion must remain limited by law and general principles of good governance to prevent it from degenerating into arbitrary action. Furthermore, factual government actions are also included in government instruments, even if they are not always outlined in written form. Factual actions, such as the demolition of illegal buildings or the regulation of public facilities, still have legal consequences and can give rise to disputes between the government and citizens. Therefore, factual government actions must be legally accountable and remain subject to the principle of legality (Lotulung, 2013).

The existence of government instruments has important implications for legal protection for citizens. Through legitimate and transparent government instruments, citizens gain legal certainty regarding their rights and obligations. Conversely, if government instruments are used

inappropriately, citizens have the right to challenge government actions through legal mechanisms, such as state administrative courts. Thus, government instruments function not only as instruments of power but also as means of control and legal protection.

Within a democratic legal framework, the use of government instruments must always be based on general principles of good governance, such as legality, legal certainty, openness, proportionality, and accountability. Implementing these principles is essential for government instruments to truly function, realizing clean, effective, and public-interest-oriented governance.

B. Types of Government Instruments and Their Functions in the Implementation of Government

In a system of government based on the principle of the rule of law, government instruments play a crucial role as a means of exercising government authority. These instruments serve not only as tools to achieve government goals but also as control mechanisms to prevent arbitrary exercise of power. Therefore, State Administrative Law systematically regulates the types of government instruments and their legal functions in governance.

1. Types of Government Instruments

The first government instrument is legislation. Legislation is a general and abstract legal instrument created by the government to regulate the lives of the wider community. This instrument reflects the government's function as a norm-maker (*regelgever*), tasked with establishing legal rules to guide the behavior of the community and state administrators. Legislation serves as the primary legal basis for subsequent government actions and serves as a guideline for the implementation of public policy (Asshiddiqie, 2017).

The second government instrument is the state administrative decree. A state administrative decree is a written determination issued by a state administrative body or official that contains state administrative legal actions based on applicable laws and regulations. This decree is concrete, individual, and final, and has legal consequences for a particular individual or

civil legal entity. Because it directly affects the rights and obligations of citizens, a state administrative decree must meet the requirements for a valid state administrative decision, both in terms of authority, procedure, and substance (Hadjon, 2015).

The next government instrument is government policy or discretion. Discretion is the freedom of action held by government officials to make decisions or take action when laws and regulations are unclear, incomplete, or offer options. Discretion is a crucial instrument in the dynamic administration of modern governance, but its use must remain limited by law and general principles of good governance to prevent abuse of authority (Ridwan, 2014).

Therefore, factual government actions are also included in government instruments. Factual actions are concrete actions taken by the government that are not always outlined in written decisions, but have legal consequences for the public. Examples of factual actions include the removal of illegal buildings, the demolition of public facilities, or certain security measures. Although factual, these actions are still subject to the principle of legality and can be legally challenged if they harm citizens.

2. Functions of Government Instruments in the Administration of Government

Government instruments serve as the primary legal basis for the implementation of government authority. Every government action must be based on a valid instrument to ensure it does not conflict with the principle of legality. Without clear government instruments, government actions could potentially be deemed illegitimate and violate state administrative law. Furthermore, government instruments serve as a means of regulating and controlling social life. Through legislation and administrative policies, the government can direct public behavior to achieve public order and social welfare. This function demonstrates the government's role as a manager of the public interest in a state governed by the rule of law. Government instruments also serve as a means of legal protection for citizens. With clear and transparent instruments, the public gains legal certainty regarding their rights and obligations. If government instruments are used inappropriately or in violation of the law,

citizens have the basis to file legal action through state administrative courts or other administrative mechanisms (Indroharto, 2000). Furthermore, government instruments serve as a means of government accountability and responsibility. Every instrument issued by the government can be tested for its validity both administratively and judicially. This encourages the government to act carefully, professionally, and responsibly in exercising its authority.

In the context of democratic governance, government instruments also serve as a manifestation of transparency and openness. Through documented and publicly accessible instruments, the public can understand the basis and objectives of government actions. Thus, government instruments are a crucial element in realizing good governance and increasing public trust in the government (Hadjon, 2010).

3. Implications of Government Instruments in State Administrative Law

Government instruments have crucial implications within the framework of State Administrative Law because they serve as the primary means for the government to exercise its public authority. Every governmental action outlined in a legal instrument not only reflects the exercise of state power but also determines the extent to which the principles of the rule of law, the protection of citizen rights, and government accountability can be effectively realized. Therefore, the use of government instruments has various legal, institutional, and social implications that must be comprehensively understood (Ridwan, 2018).

The first implication of the use of government instruments is the realization of the principle of legality in governance. In a state based on the rule of law, the principle of legality requires that every government action be based on legitimate authority and clear legal instruments. Government instruments serve as concrete evidence that the action has a justifiable legal basis. If the government acts without a legitimate instrument, the action can be deemed unlawful by the authorities and potentially overturned through state administrative justice mechanisms (Hadjon, 2015). The second implication relates to legal certainty and legal protection for citizens.

Clearly and transparently formulated government instruments provide certainty to the public regarding the rights and obligations arising from government actions. In this context, government instruments serve as legal references for citizens to understand their legal position in relation to the government. Conversely, unclear or misused instruments can create legal uncertainty and harm public interests (Indroharto, 2000). A further implication is the strengthening of oversight and testing mechanisms for government actions. In principle, every government instrument can be tested for its validity, both through administrative mechanisms and through state administrative justice. This allows for control over executive power to prevent arbitrary action. Thus, government instruments are crucial objects in the system of checks and balances in governance. Government instruments also have implications for the legal accountability of state administrative officials. Government officials who issue legal instruments are responsible for the validity and legal consequences of those instruments. If a government instrument causes harm to citizens due to errors or abuse of authority, the official concerned can be held accountable, either administratively, civilly, or criminally. This demonstrates that government instruments are not merely administrative in nature but also carry serious legal consequences (Ridwan, 2014). Furthermore, the use of government instruments has implications for the application of general principles of good governance (AUPB). Government instruments must be formulated and implemented with due regard for the principles of legal certainty, openness, proportionality, professionalism, and accountability. Violations of these principles can be grounds for the annulment of government instruments by the judiciary. Therefore, AUPB is an important parameter in assessing the validity and quality of government instruments (Hadjon, 1987). Another equally important implication is the influence of government instruments on legitimacy and public trust. Government instruments that are designed appropriately and fairly will increase public trust in the government and strengthen the legitimacy of state power. Conversely, instruments that are used inappropriately or discriminatorily can

create public distrust and damage the government's image as a provider of public interest.

In the context of modern governance, government instruments also have implications for the effectiveness and efficiency of governance. Clear and systematic instruments enable the government to act quickly and appropriately in addressing public issues. However, excessive or uncontrolled use of discretion can pose a risk of abuse of authority. Therefore, balancing flexibility and legal certainty is a key challenge in the use of government instruments. Overall, the implications of government instruments in State Administrative Law demonstrate that these instruments are not merely technical tools of government, but rather an integral part of the legal system that governs the relationship between the state and its citizens. The appropriate use of government instruments will strengthen the principle of the rule of law, guarantee the protection of citizens' rights, and encourage the realization of a democratic, accountable, and public-interest-oriented government.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on this discussion, it can be concluded that government instruments are a very important legal means in the administration of government based on State Administrative Law. These instruments serve as the basis for the government to exercise its authority legitimately, as well as a form of manifestation of the principle of legality and the general principles of good governance. Through government instruments, government authority can be implemented in an orderly, measured, and accountable manner. Various types of government instruments, such as laws and regulations, state administrative decisions, discretion, and factual government actions, have a strategic role in regulating, serving, and protecting the interests of the community. The appropriate use of government instruments will strengthen legal certainty, increase government accountability, and guarantee legal

protection for citizens in their relations with the government.

B. Suggestion

The government and state administrative officials should use government instruments carefully, professionally, and in accordance with applicable laws to prevent abuse of authority. Furthermore, the application of general principles of good governance must be continuously strengthened in every use of government instruments. Academics and law students are expected to continue developing studies on government instruments to support the realization of democratic, accountable, and public-interest-oriented governance.

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