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THE EXISTENCE OF REQUEST CIVIL OF REGIONAL OFFICERS WHOSE SCOPE OF DECISONS ARE APPLICABLE IN THE REGIONAL AREA

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Abstract: From Article 45A paragraph (1) jo. Paragraph (2) of Law 5/2004, it can be understood that a state administrative case whose object of lawsuit is a decision of a regional official whose decision range is valid in the region concerned cannot be filed for cassation, but things that are not regulated are related about request civil. Based on the background above, it can be understood that the formulation of the problem in this article are: 1) Limitation of legal remedies against state administrative cases where the object of the lawsuit is a regional official's decision whose range of decisions applies to regional areas; and 2) Legal remedies to review state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range is valid in a regional area. This research is legal research with statute approach and conceptual approach. Based on this research, it was found that **Firstly** The limitation of legal remedies against state administrative cases where the object of the lawsuit is in the form of a regional office's decision whose range of decisions applies to regional areas is that an appeal cannot be filed and **Secondly** there is no prohibition at all regarding legal remedies for request civil.

Keywords: *Limitation Of Legal Remedies, State Administrative Cases Where The Object Of The Lawsuit Is A Regional Official's Decision Whose Range Of Decisions Applies To Regional Areas, Request Civil.*

1. Introduction

According to the 1945 Constitution of the Republic of Indonesia in Article 1 paragraph (3), it is regulated that: "The State of Indonesia is a state of law." The provisions in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia are certainly not just empty sentences that have no meaning, but these sentences certainly have legal consequences (Nugraha & Wicaksana, 2021). Meanwhile, one of Indonesia's legal consequences of adopting the rule of law is the election of a judicial institution led by a judge as the final solution to resolve disputes that occur in society. Through this judge's decision, it is hoped that it can provide a sense of justice (*gerechtigheid*) for the disputing parties (Nur Iftitah Isnantiana, 2017). The existence of this legal policy choice is actually a manifestation of the protection of human rights whose main goal is to prevent chaos in society, such as the

occurrence of vigilantism. (*eigenrechting*), the condition when the strong oppress the weak, and so on (Rato, 2021). Due to the very important role of judges, what underlies the emergence of a legal maxim (Viswandro, 2014), is: "*judex herberedebet duos sales, salem sapientiae, ne sit insipidus, et salem conscientiae, ne sit diabolus* (a judge must have two things: a wisdom, unless he is a fool; and conscience, unless he has a cruel nature)".

Of the various types of courts in Indonesia that exist based on Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, one of the judicial institutions that is quite often used by the public is the state administrative court (*administrative rechtspraak)* (Siku, 2016). This can be seen, for example, based on the 2020 Supreme Court Annual Report, which shows that in 2020 alone, there were 2181 (two thousand one hundred and eighty-one) cases received by State Administrative Courts in Indonesia (Indonesia, 2020). There are still many parties who use the state administrative court as an option in resolving the dispute, which can be understood because it is following Article 47 of Law Number 5 of 1986 concerning the State Administrative Court, as amended by Law Number 9 of 2004 and Law No. Number 51 of 2009 (hereinafter referred to as the Administrative Court Law) and Article 25 of Law Number 48 of 2009 concerning Judicial Power (UU 48/2009), it can be understood that the state administrative court has the authority to hear, decide, and resolve state administrative disputes which incidentally The scope of the state administrative dispute is very broad (Heriyanto, 2018).

The extent of the dispute being tried in the state administrative court can actually be seen from the definition of a state administrative dispute which can be seen in Article 10 of the Law on the State Administrative Court, which states that: "State Administrative Dispute is a dispute that arises in the field of state administration between private persons or legal entities with state administrative bodies or officials, both at the center and in the regions, as a result of the issuance of state administrative decisions, including employment disputes based on applicable laws and regulations." From this definition, it can be understood that **all problems related to state administrative decisions regulated in the applicable laws and regulations are the absolute competence of the state administrative court** (Purnomo et al., 2020). In its development, the absolute competence of the state administrative court has even expanded with the addition of the meaning of state administrative decisions regulated in Law Number 30 of 2014 Article 87 concerning Government Administration as amended by Article 175 of Law Number 11 of 2020 concerning Job Creation (UU APEM), that: "With the enactment of this Law, the State Administrative Decisions as referred to in Law Number 5 of 1986 concerning the State Administrative Court as amended by Law Number 9 of 2004 and -Law Number 51 the Year 2009 must be interpreted as: a. a written determination which also includes concrete actions; B. Decisions of State Administration Bodies and Officials in the executive, legislative, judicial, and other state administrators; C. based on statutory provisions and the General Principles of Good Governance (AUPB); D. is final in a broader sense; e. Decisions that may have legal consequences; and/or f. Decisions that apply to the Citizens." From the existence of Article 10 of the Law on the State Administrative Court and Article 87 of the APEM Law, it can be understood that the state administrative court's absolute competence is so wide that it is natural that people often use this state administrative court. Hence, it is not an exaggeration to say that this administrative court is so important for a country. The importance of this state administrative court is also coherent with the opinion of Aju Putrijanti, who stated that: (Putrijanti & Leonard, 2019): "the role of the State

Administrative Court is increasingly important to enforce the justice function, which is carried out together with the supervisory function. Supervision of the running of the government needs to be done and improved so that it can realize good governance."

Of the many state administrative disputes that are often examined in state administrative courts, one of the disputes that are quite often filed is a state administrative case where the object of the lawsuit is a decision by a regional official whose decision range applies in the region concerned. Some examples of decisions of regional officials whose range of decisions apply in the region involved are: (Muhibuddin et al., 2017):

1. Decree for the priest of a mosque (vide Decision of the State Administrative Court Number 09/G/2015/PTUN-BNA)
2. Decree for the dismissal of the Hamlet Head (vide Decision Number 01/G/2015/PTUN-BNA)
3. Letter of appointment and dismissal of directors of development areas (vide 07/G/2013/PTUN-BNA)

The interesting thing related to the examination of state administrative cases where the object of the lawsuit is a regional official's decision is related to the limitations of legal remedies that can be filed. Based on Article 45 Paragraph (1) jo. Paragraph (2) of Law Number 5 of 2004 concerning Amendments to Law Number 14 of 1985 concerning the Supreme Court (Law 5/2004), as amended by Law Number 3 of 2009, stipulates that: Supreme Court in the cassation level adjudicates cases that meet the requirements to be submitted for cassation, **except for cases which are limited by this Act**.(2) **Excluded things** as referred to in paragraph (1) **consists of**: a. decisions on pre-trial; b. criminal case which is threatened with imprisonment for a maximum of 1 (one) year and/or is threatened with a fine; c. **State administrative cases where the object of the lawsuit is a regional official's decision whose range of decisions applies to the region concerned** (thickening by the writer)." From Article 45A paragraph (1) jo. Paragraph (2) of Law 5/2004, it can be understood that a state administrative case whose object of lawsuit is a decision of a regional official whose decision range is valid in the region concerned cannot be filed for cassation.

From the provisions of Article 45A paragraph (1) jo. Paragraph (2) of Law 5/2004, *expressis verbis*, it can be understood that it is already closed the possibility of filing a cassation lawsuit, so that when the case has filed an appeal, then the case is considered to have permanent legal force (*inkracht van gewisjde*), but things that are not regulated are related to the possibility of filing extraordinary legal remedies, namely request civil (*herziening)*. With the absence of extraordinary legal remedies, namely the review of state administrative cases where the object of the lawsuit is a regional official's decision whose range of decisions applies to the area concerned, a fundamental question arises, namely: "whether in a state administrative case the object of the lawsuit is in the form of a regional official's decision whose scope of decision is valid in the region concerned after an appeal is filed, can a request civil be filed?" "Whether in a state administrative case where the object of the lawsuit is a decision by a regional official whose decision range applies in a regional area the court cannot accept it or who can refuse to have a judge at the Supreme Court level?"

Based on the background above, it can be understood that the formulation of the problem in this article: 1) Limitation of legal remedies against state administrative cases where the object of the lawsuit is a regional official's decision whose range of decisions applies to

regional areas; and 2) Legal remedies to review state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range is valid in a regional area.

There are articles that are similar to this article, so to show the novelty of this article, we will describe similar articles and their differences, such as:

1. Article from Agus Budi Susilo entitled: "Limiting the Right to Cassation and Legal Consequences for Justice Seekers in the State Administrative Court System in Indonesia" published in the Journal of Law and Justice, Volume 5 Number 2, 2016. The article's focus is to discuss the problems related to the regulation of the limitation of cassation rights and the solution so that the arrangement is not detrimental to justice seekers in the State Administrative Court system. The difference with this article is that the focus on Agus Budi Susilo's article is limited to analyzing the limitations of the legal appeal of cassation in the State Administrative Court, while in this article, the focus will be on analyzing the extraordinary legal remedy, namely request civil.
2. Article from Muhibuddin, Mahdi Syahbandir, and M. Nur Rasyid entitled: "Juridical Review of Limitation of Cassation Legal remedies in Cases of Lawsuits Against Regional Officials' Decisions" published in Syiah Kuala Law Journal, Volume 1 Number 2, 2017. The purpose of this discussion is to discuss the problems related to the regulation of the limitation of the right to cassation and the solution so that the arrangement is not detrimental to justice seekers in the State Administrative Court system. The difference with this article, namely the focus on articles from Muhibuddin, Mahdi Syahbandir, and M. Nur Rasyid, is to analyze the limitation of legal remedies for cassation in cases at the State Administrative Court, which turns out to be very detrimental to citizens who want to fight for their rights and do not reflect the establishment of the principle of good laws and regulations. The difference with this article, namely the articles from Muhibuddin, Mahdi Syahbandir, and M. Nur Rasyid, only analyzes up to a cassation legal remedy, while in this article it will be analyzed to extraordinary legal remedies, namely request civil.

2. Research Methods

The type of research used in this article is doctrinal research. Doctinal research is one of four types of legal research initiated by Terry Hutchinson, namely (Hutchinson, 2008) : “research that provides a systematic exposition of the rules governing a particular legal category analyzes the relationship between regulations, explains areas of difficulty, and, perhaps, predicts future developments. "From this opinion, if it is related to the formulation of the problem to be analyzed, this article will analyze the legal remedies for request civil of state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range applies in the region by using the relevant laws and regulations.

In this legal research, 2 (two) approaches are used, namely the statute approach and the conceptual approach. The Statute Approach is carried out by reviewing all laws and regulations related to the legal issues being handled (Marzuki, 2017). In this article, the researcher will analyze the laws and regulations relating to legal remedies for request civil of state administrative cases where the object of the lawsuit is a regional official's decision whose scope of decision is valid in the region. The Conceptual Approach is carried out by conducting research on existing doctrines (Effendi & Ibrahim, 2020). In this article, the researcher will analyze the legal doctrines and concepts related to legal remedies for request

civil of state administrative cases where the object of the lawsuit is a regional official's decision whose scope of decision is valid in a regional area.

3. Results and Discussion

3.1. Limitation of Legal remedys Against State Administrative Cases The Object of the Lawsuit is a Decree of a Regional Official whose Decision Range is Applicable in a Regional Territory

Ad Rectedocendumoportet primum inquirerenomina, quia rerum cognitio a nominimbus rerum dependet (In order to understand something, you need to know its name first, in order to get the right knowledge) (Hiariej, 2015). A classic legal adage that has a depth of meaning, that to understand a legal concept, it must understand its definition so that there is no misunderstanding of the concept (Setiawan et al., 2020). On this basis, before describing the limitation of legal remedies against state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range applies in the region, the definition of legal remedy will be described first.

The definitions of legal remedies from experts include:

1. Sudikno Mertokusumo
   Efforts or tools to prevent or correct errors in a decision (Mertokusumo, 2009).
2. R.Atang Ranoemihardja,
   Legal remedy is a business through legal channels from parties who are dissatisfied with the judge's decision which is considered unfair or inappropriate (Sofyan, 2013).
3. Syahrul Sitorus
   Efforts provided by law for a person or legal entity in certain cases to oppose the judge's decision as a place for parties who are dissatisfied with the judge's decision which is considered not to fulfill a sense of justice, because the judge is also a human being who can inadvertently make mistakes. which can lead to wrong decisions or to side with one of the parties (Sitorus, 2018).

From these various definitions, a synthesis can be drawn, that legal remedy is an effort given by law to a person or legal entity who is dissatisfied in certain matters to oppose a judge's decision.

As for legal remedy against a district court decision, when one or the parties are not satisfied, then there are 2 (two) legal remedies:

a. Ordinary legal remedy
   In general, legal remedies against a judge's decision consist of an appeal submitted to the High Court and a cassation (if one of the parties is not satisfied with the appeal decision) submitted to the Supreme Court. (Basri, 2021). Related to the legal basis for this appeal, it is regulated in Article 26 paragraph (1) of Law 48/2009, which states that: "The decision of the court of the first instance may be appealed to the high court by the parties concerned unless the law provides otherwise." and for the legal remedy of cassation, the legal basis is regulated in Article 20 paragraph (2) letter an of Law 48/2009 which states that: "The Supreme Court has the authority to a. adjudicate at the level of cassation against decisions given at the last level by courts in all judicial circles under the Supreme Court unless the law provides otherwise." The existence of the Cassation Decision produced by the Supreme Court is the final decision that is

binding on the litigants; in other words, the decision is determined as a decision that has permanent legal force (Suhariyanto, 2016). As for the difference between examination at the level of appeal and cassation: **First**, in the case of an appeal, the panel of judges is still allowed to examine the facts in the process of handling cases, so it is still called *judex factie*, while the panel of judges of the Supreme Court are no longer allowed to examine facts in the process of handling cases, but only the provisions of the application of the law (*rechtstoe passing*), so that The Supreme Court is also known as the *judex jurist* (Simanjuntak, 2018). **Second**, In filing an appeal, it is not obligatory to file a memorandum, while in filing a cassation, it is obligatory to include a memorandum of cassation [vide Article 47 of Law Number 14 of 1985 concerning the Supreme Court as Amended by Law Number 5 of 2004 and Law Number 3 of 2009]).

b. Extraordinary legal remedy
In general, extraordinary legal remedies are civil requests (*herziening*). In simple terms, a civil request is a legal remedy that can be taken by someone in a legal case against a court decision that has permanent legal force in the justice system in Indonesia on condition that there are certain things or conditions specified in the law (Muhlizi, 2015). In the elucidation of Article 24 uu 488/2009, it is explained that what is meant by "certain matters or circumstances" are, among others, the discovery of new evidence (novum) and/or an error or mistake by the judge in applying the law. Therefore, The absolute condition for submitting a civil request is the existence of a novum and/or an error or mistake by the judge (Setyono, 2019). In fact, there are other extraordinary legal remedies, specifically in certain cases, such as *deden verzet* which is only known in civil cases which incidentally is an extraordinary legal remedy in the form of a third party resistance against a court decision that has permanent legal force and is detrimental to third parties.(Firman et al., 2020). In the past, it was also known in state administrative cases, but after the issuance of Article 1 number 37 of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts in conjunction with Constitutional Court Decision Number 122/PUU-VII/ 2009, deden verzet in the case of state administration is no longer known (Abrianto et al., 2018).

The basic difference from the classification of the 2 (two) legal remedies is that ordinary legal remedies suspend execution (unless against a decision the claim is granted immediately). In contrast, extraordinary legal remedies do not suspend execution, and ordinary legal remedies are filed before the decision. permanent legal force, while extraordinary legal remedies are filed after the decision has permanent legal force (Haloman, 2015).

In state administrative courts, legal remedies against a decision of the state court are also known, both ordinary legal remedies and extraordinary legal remedies are also known. As for legal remedies against regional court decisions in state administrative courts:

a. Ordinary legal remedies
   i. Appeal
   Article 122 of the Administrative Court Law states: "Against the decision of the State Administrative Court, an appeal may be requested by the plaintiff or the

defendant to the State Administrative High Court." The period for filing the appeal is 14 (fourteen) days after the Court's decision is legally notified, as stipulated in Article 123 of the Law on the High Court of State Administration. If the parties do not file an appeal after the 14 (fourteen) days have passed, then the parties are assumed to have accepted the decision, and the decision becomes final and binding (Sugiarto & Tirtamulia, 2012).

This appeal decision is often referred to as a judex factie examination (some also call it a second *judex factie* examination), because it examines not only the application of the law, but also the facts of the trial (Hidayatullah & Burhanuddin, 2020). According to Sudikno Mertokusumo, at the appeal level, even though he examined the judex factie, the judge was still not allowed to grant more than what was demanded or decide things that were not demanded (Mertokusumo, 2010). According to Fence M. Wantu, as for these consequences, judges at the appellate level (in casu: high judges at the state administrative court) must allow the decision at the first judicial level as long as it is not disputed at the appeal level (*tantum devolutum quantum applelatum*) (Wantu, 2014).

ii. Cassation

In the field of state administration related to legal remedies for Cassation, it is regulated in Article 51 paragraph (4) of the Law on the High Court of State Administration, which reads: "Against the decision of the High Administrative Court as referred to in paragraph (3), a cassation application may be filed." and Article 131 paragraph (1) of the Law on the State Administrative High Court which reads: "Against the decision of the last level of the Court, a cassation examination may be requested to the Supreme Court." The period for filing a cassation lawsuit in the state administrative court is based on Article 131 paragraph (2) of the Administrative Court Law jo. Article 55 paragraph (1) of Law is. Article 46 of the Supreme Court Law is 14 (fourteen) days. If the parties do not file an appeal after the 14 (fourteen) days have passed, then the parties are assumed to have accepted the decision, and the decision becomes final and binding (Triwulan.T, 2016).

b. Extraordinary legal remedies

Request civil

In principle, a review of a state administrative court decision with permanent legal force is actually the same as a review of the decisions of other cases. The reasons for this petition for reconsideration are based on Article 67 of the Law on the Supreme Court: a. if the decision is based on a lie or trick of the opposing party which is known after the case has been decided or is based on evidence which the criminal judge later declares to be false; b. if after the issue has been decided, decisive evidence is found that the case was examined could not be found; c. if something has been granted which is not demanded or more than what is required; d. if a part of the claim has not been decided without considering the reasons; e. if between the same parties regarding the same matter, on the same basis by the same Court or at the same level a decision has been given that contradicts one another; f. if in a decision there is an error of the judge or a factual error. The period for filing this request civil is based on Article 68 of the Law on the Supreme Court: a. referred to letter a since the lie or deception was discovered or since the decision of the criminal judge obtained permanent legal force,

and has been notified to the litigants; b. referred to in letter b since the founding of the documents of evidence, the day and date of which they are found must be declared under oath and ratified by the authorized official; c. referred to in letters c, d, and f since the decision has permanent legal force and has been notified to the litigating parties; d. the one referred to in letter e since the last and contradictory decision has obtained permanent legal force and has been notified to the litigating party.

In fact, even though in the decision of the state administrative district court, the parties can file legal remedies, in certain circumstances, there are restrictions on legal remedies. For example, in Article 18 of the Regulation of the Supreme Court Number 8 of 2017 concerning Guidelines for Proceedings to Obtain a Decision on the Acceptance of an Application to Obtain a Decision and/or Action of an Agency or Government Official which stipulates that: The actions of the Agency or Government Official are final and final." From the provisions, it can be seen that for the decision on the acceptance of the application (commonly known as the determination of positive fictitious consequences), there is no legal remedy, so that automatically the decision from the state administrative court becomes permanent legal force (in its development based on Article 175 number 6 of the Law). Number 11 of 2020 concerning Job Creation is no longer known for decisions on applications for receiving applications to obtain Decisions and/or Actions of Government Agencies or Officials).

Cases which are absolute competencies of other state administrative courts that cannot be filed for legal remedies, namely state administrative cases whose object of the lawsuit is a decision of a regional official whose decision range is valid in the region concerned. This can be seen in Article 45A paragraph (1) jo. Paragraph (2) of the Supreme Court Law, which states:

1) The Supreme Court at the cassation level hears cases that meet the requirements to be filed for cassation, except for cases for which submissions are limited by this Law.
2) Cases that are excluded as referred to in paragraph (1) consist of:
   a. decisions on pretrial;
   b. a criminal case which is punishable by a maximum imprisonment of 1 (one) year and/or is subject to a fine;
   c. State administrative cases where the object of the lawsuit is a regional official's decision whose range of decisions applies to the region concerned.

Thus, for state administrative decisions whose object of the lawsuit is a regional official's decision whose range of decisions applies to the region concerned, the last legal remedy that can be requested is an appeal. After the appeal, although there are parties who are dissatisfied with the decision of the high court judge, they cannot file an appeal. Therefore, after the appeal, it can be said that the decision has permanent legal force.

As for the legislative ratio of the limitation of this cassation legal effort, it can be seen in the Supreme Court Research Result Report, which states that the urgency of limiting legal remedies, namely: 1) So that a fast, simple, and low-cost trial can be achieved; 2) So that legal certainty and unity can be achieved; 3) In some countries, there have also been restrictions on cassation; 4) In order to create a sense of satisfaction because the decision is

felt to be fair for both the loser and the winner. Related to the legislature's ratio, then it becomes the basis in Law 5/2004 which limits wrongful cassation legal efforts. The other is a state administrative case in which the object of the lawsuit is a regional official's decision whose range of decisions applies to the region concerned. This can also be seen in the general explanation of Law 5/2004, which states: "In this Law, there are restrictions on cases that can be appealed to the Supreme Court. This limitation is not only intended to reduce the tendency for every case to be submitted to the Supreme Court and is also intended to encourage the improvement of the quality of the decisions of the courts of the first instance and the courts of appeal following the values of law and justice in society."

The existence of restrictions on the legal effort of this cassation has also been tested for its constitutionality. This can be seen in one of the decisions of the Constitutional Court Number 91/PUU-XII/2014, which examines the limitation of legal remedies for cassation in criminal cases punishable by imprisonment for a maximum of 1 (one) year and/or a fine. In his description, the applicant argues that the limitation of legal remedies for cassation against cases in Article 45A paragraph (1) jo. Paragraph (2) of the Supreme Court Law has created injustice, lack of benefits, and legal uncertainty. It has also made the Petitioners' constitutional rights as Indonesian citizens guaranteed by Article 28D paragraph (1) of the 1945 Constitution non-existent. Based on this argument, the Constitutional Court explained that: "Restrictions have become a common practice in many countries, both those that adhere to the common law tradition and the civil law system. These restrictions are, among other things, to keep the number of cases requested for a cassation examination and improve the quality of *judex facti* decisions. These restrictions generally apply not only to the Petitioner, so that the principle of justice, namely equality before the law, is guaranteed so that it cannot be said to be discriminatory as argued by the Petitioner." Thus, it can be said that the Constitutional Court considers the limitation of the cassation legal remedy to be constitutional because the essence of the limitation of the legal remedy is to prevent too many cases from being petitioned for cassation examination, as well as to improve the quality of the *judex facti* decision itself.

In relation to one of the cases in Article 45A paragraph (2) of the Supreme Court Law which cannot be appealed for, namely a state administrative case where the object of the lawsuit is a decision by a regional official whose decision range is valid in the region concerned so that this cassation cannot be filed. It can also be seen in the Supreme Jurisprudence Register Number 213 K/TUN/2007 dated November 6, 2007, which states that: "State Administrative Cases that are excluded from being subject to Cassation are State Administrative Cases whose object of the lawsuit is a Regional Official's Decree whose decision range is applied in the area concerned." However, one of the problems is related to the qualifications of state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range applies in the area of the region. Based on the official interpretation of these provisions (176th video attachment of Law Number 12 of 2011 concerning the Establishment of Legislations), namely the explanation section only states that: "This provision does not include decisions of state administrative officials originating from the authority not given to regions following statutory regulations. "Based on these provisions, in fact, they still have not provided a clear enough interpretation regarding the decisions of regional officials whose decision ranges apply to the region concerned, which cannot be appealed. Therefore, in addition to decisions of state administrative officials

originating from authorities not given to the regions following statutory regulations, cassation can still be filed.

In its development, related to the qualifications of state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range is valid in the region concerned so that it cannot be submitted, this is starting to be regulated in a Circular Letter of the Supreme Court, for example:

1. In the Circular Letter of the Supreme Court, Number 4 of 2016 (sema 4/2016) letter E number 6 provides a little additional explanation, that: "The criteria for limiting the legal effort to appeal in Article 45A paragraph (2) letter c of Law Number 5 of 2004 is for local officials' decisions originating from decentralized sources of authority. However, for the decisions of regional officials originating from deconcentration authority or originating from the assistance authority to the central government (*medebewin*), an appeal can still be made."
2. In the Circular Letter of the Supreme Court Number 2 of 2019 (Sema 2/2019) letter E number 1 letter c, it is stated: "Disputes regarding the appointment and/or dismissal of village officials, including types of disputes subject to restrictions on Cassation based on Article 45A paragraph (2) letter c Law Number 5 of 2004 concerning Amendments to Law Number 14 of 1985 concerning the Supreme Court. "In connection with this, it is also confirmed in the Circular Letter of the Supreme Court Number 10 of 2020 (Supreme Court Circular 10/2020) number 1.

   In the absence of laws and regulations relating to the detailed classification of decisions of regional officials whose decision ranges apply in the region concerned (other than the Elucidation of Article 45A paragraph (2) of Law 5/2004 and several Supreme Court Circulars), but as a reference To understand the classification of these decisions holistically, it can refer to the results of the 2007 National Working Meeting of the Supreme Court of the Republic of Indonesia on September 4, 2007 (National Working Meeting of the Supreme Court 4/2007). In the National Working Meeting of the Supreme Court 4/2007, it was stated that the criteria for decisions of regional officials whose decision ranges apply in regional areas that cannot be appealed are (Informasi et al., 2010):
3. If the decision of the regional official is the implementation of decentralization of authority granted by the central government to an autonomous region, on the basis of which the relevant regional government has further regulated the matter of authority in a regional regulation, in principle, an appeal cannot be filed.
4. If the decision of the regional official is the implementation of the deconcentration of the authority he has, so that in fact it is in the context of carrying out the authority of the central government, then in principle an appeal can be filed.
5. Between the implementation of the principles of decentralization and deconcentration, regional officials are also given assistance in certain cases (*Medebewind*).
6. Decisions of regional officials whose scope of validity are included in the gray area, namely:
   i. If regional officials issue decisions in the context of decentralization of authority and these decisions have a range of applicable areas (locus materiae) that are cross-sectoral or cross-territorial in nature, for example, authority between one autonomous region and another autonomous region, or between autonomous regions

and the government. central government, or between the central government and other autonomous regions, then the decision of the regional official becomes valid, whose scope is not limited to the autonomous region of the official concerned.

ii. Decisions of regional officials whose contents come from and the tasks of assistance (*medebewind*).

7. In the event that there is a decision as ad.4. As mentioned above, the case file should be sent to the Supreme Court to determine whether the case meets the requirements for appeal or vice versa.
8. Suppose it is known for certain that the decision of the regional is valid only in the region concerned. In that case, the Chairperson of the State Administrative Court at the request of the litigating party is obliged to issue a statement accompanied by "logical-juridical" arguments stating that the case does not meet the requirements to be submitted. Then the case file was not sent to the Supreme Court.
9. Suppose the Chairperson of the State Administrative Court knows that the regional office's decision is valid only in the region concerned but still forwards the case file to the Supreme Court in the context of supervision. In that case, the Supreme Court is attributively obliged to take corrective action by issuing a letter stating that it cannot be appealed and return the case file to the State Administrative Court concerned.
10. The action of the Chairperson of the State Administrative Court is not stated in the form of a determination, but in the form of a "Certificate Letter", because the action is only a case administration action (judicial management) and not a judicial act. So it is in the realm of administration which is *declaratoir*.

Thus, when the decision of the state administration is the object of the lawsuit in the form of a decision by a regional official whose scope of decision applies in the area concerned which incidentally meets the classification of the National Working Meeting of the Supreme Court 4/2007, then after an appeal, the decision has the force of permanent law.

3.2. Review of State Administrative Cases The Object of the Lawsuit is a Decree of a Regional Official whose Scope of Decision is Applicable in a Regional Territory

In the previous sub-chapter, it has been explained that the last legal remedy that can be brought against the decision of a state administrative case whose object of the lawsuit is a decision by a regional official whose decision range applies in the region is an appeal. After an appeal is filed, the decision has been qualified as a decision that has permanent legal force. It has also been described above that the main reason that other legal remedies in the form of cassation cannot be carried out is that the legislation expressis verbis limits this, but the question is related to the permissibility of filing legal remedies to request a civil against the appeal decision.

Previously, it should be understood that in Article 21 of Law 48/2009, it is stipulated that: "Against a court decision that has obtained permanent legal force, the parties concerned can submit a review to the Supreme Court, if there are certain things or conditions specified in the law. -law." From Article 21 of Law 48/2009, it can be understood that legal remedies for request civil can only be submitted against court decisions that have permanent legal force, so that when it is associated with decisions on state administrative cases where the object of the lawsuit is a regional office decision whose range of decisions applies to a regional area that is qualified as having permanent legal force after an appeal is legal, then a

request civil of the decision should be filed against the decision. The following is a description of the syllogism:

Table 1.
The syllogism of filing legal remedies for request civil of state administrative decisions whose object of lawsuit is a regional official's decision whose scope of decision is valid in a regional area

Premise 1	:	Against court decisions that have obtained permanent legal force, legal remedies for request civil can be submitted
Premise 2	:	After the appeal legal remedy, the State Administrative Decision whose object of lawsuit is in the form of a regional official's decision whose scope of decision is valid in a regional area becomes a decision with permanent legal force.
Conclusion	:	After an appeal, a state administrative decision whose object of lawsuit is a decision by a regional official whose range of decisions is valid in a regional area may be filed for a request civil.

Source: researcher's management results

There is a syllogism above which explains that after an appeal, a state administrative decision whose object of the lawsuit is a decision of a regional official whose decision range is valid in a regional area can be filed as a qualified legal action as a permanent legal decision, so that a request civil can be submitted, in fact, can also be seen in the considerations of the constitutional judges in the Constitutional Court Decision Number 23/PUU-V/2007. Initially, the applicant argued that Article 45 paragraph (2) letter c of the Supreme Court Law contradicted Article 131 paragraph (1) and paragraph (2) of Law Number 5 of 1986 concerning the State Administrative Court (Law 5/1986), which reads: "1)" Against the decision of the last instance of the Court, a cassation examination may be requested to the Supreme Court; (2) The procedure for examining the cassation as referred to in paragraph (1) is carried out following the provisions as referred to in Article 55 paragraph (1) of Law Number 14 of 1985 concerning the Supreme Court." Thus, the applicant feels that his right to file a cassation in Article Law 5/1986 is limited by the existence of Article 45 paragraph (2) letter c of the Supreme Court Law, so that it is contrary to its constitutional rights guaranteed in Article 28D paragraph (1) and Article 27 paragraph (1) of the 1945 Constitution.

In relation to the existence of these restrictions, the Constitutional Court in its decision number 23/PUU-V/2007 in its legal considerations, basically argues that:

1. With the above description, the need for a case to be examined until the court of cassation level will no longer be an urgent need if the quality of the decisions of the courts of the first instance and the level of appeal has reflected the values of law and justice prevailing in society, as confirmed in the General Elucidation of the Supreme Court Law. Therefore, the push towards improving the quality of such court decisions must be supported by all parties, including and especially by legislators, not only on cases which are the absolute competence of courts within the state administrative courts

but in all judicial environments, especially for civil cases which are the absolute competence of the court in a general court environment where caseloads occur a lot. If a statutory provision succeeds in providing impetus towards the realization of an increase in the quality of court decisions of the first instance and the level of appeal, then the law has not only played itself in its classic function as a means of maintaining social order (tool of social control) but has also plays himself as a means of social engineering (tool of social engineering);

2. It is also important to remember that such restrictions are not only commonly practiced in democratic law countries that follow a continental system, such as Germany and the Netherlands, but also in countries that have a jury justice system, such as the United States of America.;
3. Meanwhile, regarding the issue of whether the provisions of Article 45A paragraph (2) letter c of the Supreme Court Law have resulted in unequal treatment before the law against the Petitioners, according to the Court, such arguments can only be accepted if there are other parties who have the same qualifications as the Petitioners. but received different treatment as a result of the enactment of Article 45A paragraph (2) letter c of the Supreme Court Law, which matter has not been proven. Even if there is an incident similar to that experienced by the Petitioner but the incident occurred before the amendment to Law Number 14 of 1985, this is not evidence of unequal treatment before the law but as a consequence of the amendment to the law.;
4. Likewise with the Petitioner's argument which states that Article 45A paragraph (2) letter c of the Supreme Court Law has created legal uncertainty, the Petitioner's argument is also unfounded. Because, as described in the considerations in letter a above, Article 131 paragraph (1) and paragraph (2) of the State Administrative Court Law – which is used as the basis by the Petitioner to state that a regional official's decision can be appealed to the Supreme Court – refers to to the Law on the Supreme Court, while the Law on the Supreme Court itself was then amended, in which one of the changes was the issuance of provisions concerning the limitation of cassation. In other words, because the implementation of the provisions in the State Administrative Court Law refers to the Supreme Court Law, if the Supreme Court Law then undergoes a change, the result of the change cannot be said to be legal uncertainty;
5. Moreover, **even if in the judge's decision against which a cassation cannot be applied for, there are errors, oversights, and mistakes that may cause the loss of the Petitioner's constitutional rights, it is still possible for the Petitioner to file an extraordinary legal remedy, namely a review to the Supreme Court** authorized to correct errors in decisions that have permanent legal force. Such provisions are regulated in Article 23 paragraph (1) of Law Number 4 of 2004 concerning Judicial Power which states, "In respect of court decisions that have obtained permanent legal force, the parties concerned may apply for a review to the Supreme Court, if there are any or certain conditions specified in the law".

From one of the considerations of the Constitutional Court Judge in the decision number 23/PUU-V/2007 which says that Article 45 paragraph (2) letter c of the Supreme Court Law is constitutional because there are still legal remedies, namely reconsideration. Thus, according to the Constitutional Court, although the legal remedy for cassation has been closed for a state administrative case whose object of lawsuit is a

decision by a regional official whose decision range is valid in a regional area, it is still possible to use other external legal remedies, namely reconsideration. Therefore, it can be understood from the *a contrario* interpretation, that in the absence or habit of filing a request civil of a state administrative case where the object of the lawsuit is a decision by a regional official whose decision range is valid in a regional area, then there is a limitation on cassation in Article 45 paragraph (2) letter c The Supreme Court Law is unconstitutional.

4. Conclusions

The limitation of legal remedies against state administrative cases where the object of the lawsuit is in the form of a regional office's decision whose range of decisions applies to regional areas is that an appeal cannot be filed based on Article 45 paragraph (2) letter c of the Supreme Court Law. Regarding the classification of state administrative cases, the object of which is a decision by a regional official whose range of decisions applies to this area, unfortunately, it is still not clearly regulated in the laws and regulations (With the absence of laws and regulations governing the classification related to details regarding decisions of regional officials whose scope of decisions applies to the region concerned (in addition to the Elucidation of Article 45A paragraph (2) of Law 5/2004 and several Circulars of the Supreme Court). , then it can refer to the results of the 2007 National Working Meeting of the Supreme Court of the Republic of Indonesia on September 4, 2007.

With regard to state administrative documents, the object of which is a decision by a regional official whose decision is valid in a regional area, a cassation can not be filed, because *expressis verbis* it is prohibited in Article 45 paragraph (2) letter c of the Supreme Court Law. However, in relation to legal remedies for request civil of state administrative cases where the object of the lawsuit is a decision by a regional official whose decision range applies to a regional area, a cassation lawsuit cannot be filed, there is no prohibition at all regarding legal remedies for request civil, even the requirements for legal remedies The review in Article 21 of Law 48/2009 is that the decision has permanent legal force, so that when a decision on a state administrative case whose object of lawsuit is a decision by a regional official whose decision range is valid in a regional area has permanent legal force (post appeal), it can be filed cassation proceedings. The potential for filing a request civil was also stated by the Constitutional Court Judge in Decision Number 23/PUU-V/2007.

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