

ABSTRAK

Penelitian ini menganalisis penerapan asas non-retroaktif dalam kebijakan publik pemberhentian Tenaga Pendamping Profesional (TPP) oleh Kementerian Desa Pembangunan Daerah Tertinggal dan Transmigrasi (Kemendesa PDTT) tahun 2025 melalui pendekatan yuridis normatif. Penelitian menemukan bahwa Surat Perintah Kerja (SPK) TPP TA 2025 yang diterbitkan BPSDM pada 3 Januari 2025 bersifat retroaktif karena menyanksi TPP calon legislatif Pemilu 2024 tanpa dasar larangan saat itu, melanggar Pasal 67 UU No. 12 Tahun 2011 dan Pasal 58 ayat (6) UU No. 30 Tahun 2014 tentang Administrasi Pemerintahan (UU AP). SPK tersebut juga cacat formil karena melanggar Asas Umum Pemerintahan yang Baik (AUPB) Pasal 10 UU AP, khususnya kepastian hukum, kecermatan, tertib penyelenggaraan, kepentingan umum, serta keterbukaan-transparansi, sebagaimana dikonfirmasi temuan Ombudsman RI No. T1662/LM.11-K60359/VII/2025 tentang maladministrasi. Implikasi hukumnya adalah ketidaksahan SPK sebagai KTUN yang dapat dibatalkan via PTUN (Pasal 71 UU AP), dengan tindakan TPP TA 2024 tetap sah. Skripsi merekomendasikan revisi prosedur SPK, harmonisasi regulasi Pemilu-kepegawaian non-ASN, serta jurisprudensi PTUN khusus retroaktivitas kebijakan publik untuk memperkuat kepastian hukum dan keadilan administratif.

Kata Kunci: Asas Non-Retroaktif, AUPB, Kebijakan Publik, UU Administrasi Pemerintahan

ABSTRACT

This study analyzes the application of the non-retroactivity principle in the public policy concerning the dismissal of Professional Village Facilitators (Tenaga Pendamping Profesional/TPP) by the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration (Kemendesa PDTT) in 2025 through a normative juridical approach. The research finds that the Work Order Letter (Surat Perintah Kerja/SPK) for Fiscal Year 2025, issued by the Human Resources Development and Empowerment Agency (BPSDM) on January 3, 2025, has retroactive effect because it imposed sanctions on TPP who had registered as legislative candidates in the 2024 General Election, despite the absence of any prohibitive regulation at the time. This measure contravenes Article 67 of Law No. 12 of 2011 on the Formation of Laws and Regulations and Article 58 paragraph (6) of Law No. 30 of 2014 on Government Administration. Furthermore, the SPK is formally defective as it violates the General Principles of Good Governance (Asas Umum Pemerintahan yang Baik/AUPB) under Article 10 of Law No. 30 of 2014, particularly the principles of legal certainty, prudence, orderly administration, public interest, and transparency. These violations are corroborated by the findings of the Ombudsman of the Republic of Indonesia in Report No. T1662/LM.11-K60359/VII/2025, which identified maladministration in the termination process. The legal implication of this finding is that the SPK constitutes an invalid State Administrative Decision (Keputusan Tata Usaha Negara/KTUN) subject to annulment before the State Administrative Court (PTUN) pursuant to Article 71 of Law No. 30 of 2014, while the actions undertaken by TPP in Fiscal Year 2024 remain legally valid. This thesis recommends revising the SPK issuance procedures, harmonizing electoral regulations with non-civil servant employment policies, and developing specific administrative court jurisprudence on retroactive public policies to strengthen legal certainty and administrative justice.

Keywords: Non-Retroactivity Principle, General Principles of Good Governance, Public Policy, Government Administration Law