

The Principle of *Contrarius Actus* in the Dispute Over the Appointment of the Acting Regent of Padang Lawas Regency

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Abstract. *This research discusses the Principle of Contrarius Actus in the Appointment Dispute for the Regent of Padang Lawas. This research uses the observation method. The observation method is a process of observing the five senses, interviews are to get answers by asking questions and answers, documentation is past notes and literature study is collecting the required documents. The research approach used is an empirical juridical approach aimed at obtaining primary data and secondary data through field research and library research. Researchers obtain sources through literature studies in the form of articles, journals, document studies in the form of photographs and field studies by means of interviews and observations. In the discussion, we know a lot that the New Order government and regions could not develop optimally because the political and economic system built by the New Order government was very centralized. On November 24 2021, a problem arose between the regent and the deputy regent of Padang Lawas regarding the issuance of a letter issued by the Governor of North Sumatra number 132/12201/2021 regarding the deputy regent of Padang Lawas as acting Regent of Padang Lawas, where the contents of the letter lacked careful consideration and it seemed like they were in a hurry, proven by the fact that the regent's health was not checked. The publication of the letter issued by the Governor of North Sumatra resulted in the regent no longer being able to carry out his duties, authority and functions as Regent of Padang Lawas comprehensively. The occurrence of a conflict between the Regent and Deputy Regent of Padang Lawas resulted in the loss of rights and obligations in carrying out their duties and authority as regent.*

Keywords: *Acting; Disputes; Principles; Regent.*

1. INTRODUCTION

During the New Order government, regions could not develop optimally because the political and economic system built by the New Order government was very centralized. All regional policies were always decided by the center. Regions did not have the power to develop their regional potential, and eventually became very

"dependent" on the center. Central interests to continue to control the regions went hand in hand with a political system that tended to be repressive and undemocratic. The New Order regime regulated regional government independently, in detail and with national uniforms.¹ Political superstructure organs are centrally regulated and uniform regardless of the heterogeneity of the political system that has existed long before the concept of Indonesian nationality was formed. Local government elites are merely extensions of the central government in the regions who are given great power to maneuver politically to show devotion to the center. The regional head is united with the regional head figure, the election process is largely controlled by the center.²

Padang Lawas Regency is one of the regencies located in North Sumatra Province. This regency was established in 2007 as a result of the division of South Tapanuli Regency, which used to be one regency. At the beginning of its division and formation, Padang Lawas Regency consisted of 9 sub-districts, then in 2011 in its development 2 new sub-districts were formed namely, the sub-districts of South Barumun and Aek Nabara Barumun), and in 2012 another new sub-district was formed, namely, the sub-district of Sihapas Barumun. The total number of sub-districts in the entire Padang Lawas Regency area in 2023 increased to 17 sub-districts and 1 single village, namely the Sibuhuan Market village located in the Barumun sub-district with the center of government being the Padang Lawas Regency.

Padang Lawas is a government led by a regent. In May 2021, the regent of Padang Lawas fell ill, so the regent underwent a period of treatment. On June 11, 2021 the regent issued Padang Lawas Regent Decree Number 188.5/341/KPTS/2021 concerning the Delegation of Partial Government Administration Authority to the Deputy Regent, which was amended by Padang Lawas Regent Decree Number 188.5/341/KPTS/2021 concerning the Delegation of Partial Government Administration Authority to the Deputy Regent, based on the Governor's Letter Number 131/5256/2021 dated June 9, 2021 concerning the Delegation of Authority of the Regent of Padang Lawas to the Deputy Regent of Padang Lawas.

On November 24, 2021, a problem arose between the regent and the deputy regent of Padang Lawas over the issuance of a letter issued by the Governor of North Sumatra number 132/12201/2021 concerning the deputy regent of Padang Lawas as the acting regent of Padang Lawas, where the contents of the letter lacked careful consideration and seemed hasty, as evidenced by not checking the actual health of the regent. The issuance of the letter issued by the Governor of North Sumatra resulted in the regent no longer being able to carry out his duties and authorities and functions as the Regent of Padang Lawas comprehensively.

The delegation of authority of the Regent of Padang Lawas to the Deputy Regent of Padang Lawas without conducting a medical examination of the regent first so that the issuance of the aquo letter is considered legally flawed and an abuse of authority in violation of Article 17 paragraph (1) reads "Government agencies and / or officials are prohibited from abusing authority and paragraph (2) reads the prohibition of abuse of authority as referred to in paragraph (1) includes: (a) Prohibition of exceeding

¹ Thontowi, J. (2019). *Hukum Inklusif Perspektif Indonesia*. Jakarta: Total Media.

² Jimly, Asshiddiqie, (2007), *Hukum Tata Negara Darurat*, Jakarta: PT. Raja Grafindo Persada

authority, (b) prohibition of mixing authority and (3) prohibition of acting arbitrarily. Law No. 30 of 2014 concerning Government Administration.³

The dispute between the Regent, Deputy Regent of Padang Lawas and the Governor of North Sumatra resulted in many losses experienced by the Regent of Padang Lawas. The issuance of the letter that is the object of the dispute cannot be accounted for by the regent because all duties that are the rights and obligations of the regent are fully taken over by the Deputy Regent of Padang Lawas in accordance with the letter that is the object of the dispute. A dispute is a situation in which a party feels aggrieved by another party, who then conveys this dissatisfaction to the second party. In the legal context, a dispute is a dispute that occurs between the parties due to a violation of the agreement, in other words, there has been a default by the party or one of the parties.⁴

The occurrence of a dispute conflict between the Regent and Deputy Regent of Padang Lawas has an impact on the loss of rights and obligations in carrying out their duties and authorities as regents. The issuance of the North Sumatra Governor's letter became the object of a dispute between the Regent and Deputy Regent of Padang Lawas. In this case, the Regent of Padang Lawas, from a personal point of view, feels that he has lost his dignity in the leading region. This also has an impact on the responsibility for signing the APBD, if one day the APBD has a problem, it is likely that there will be a runaway responsibility between the regent and the acting regent due to the object of the leadership dispute.

There are several research results that discuss the principle of *Contrarius Actus* in the dispute over the appointment of the acting regent of Padang Lawas in other places that can be used as a reference for this research, both in the form of a thesis and writing an article. As written by Imam Sukadi "The *Contrarius Actus* Principle as Government Control of Freedom of Association and Gathering in Indonesia". This research discusses the application of the principle of *Contrarius Actus* as the government's control over the freedom of association and assembly in the Unitary State of the Republic of Indonesia is about the parameters of the state of danger in issuing perpu by the government, restrictions on the freedom of association and assembly and eliminating the role of the court in the process of dissolving mass organizations. The mechanism of dissolution of mass organizations without going through the judiciary can nullify important objectives in the rule of law. This research also discusses that the presence of the judiciary is to prevent the practice of government arbitrariness. The logic of administrative law authorization through the government is an absolute thing as a prerequisite for CSOs to carry out an activity or be recognized.⁵

³ Ridwan, HR, (2011), *Hukum Administrasi Negara, Edisi Revisi*, Jakarta: Raja Grafindo Persada

⁴ Amriani, N. (2021). Hak Gugat Pemerintah Kota Langsa: Upaya Perlindungan Hutan Mangrove Dalam Rangka Menegakkan Prinsip Keadilan Intra Dan Antar Generasi. *Jurnal Hukum Samudra Keadilan*, 16(1), 112-122.

⁵ Imam, S. (2019). Asas *contrarius actus* sebagai kontrol pemerintah terhadap kebebasan berserikat dan berkumpul di Indonesia. *MimbarKeadilan*, 12 (2), 181-195.

Research by Abdullah Almeer Syahqeel Bawamenewi and Budiman Sinaga "Legal Studies on the Dismissal of Regional Heads According to the Indonesian Constitution". This study discusses the Legal Study of the Dismissal of Regional Heads According to the Indonesian Constitution. The dismissal of regional heads and deputy regional heads starting from Law number 5 of 1974, Law number 22 of 1999, Law number 32 of 2004 and the latest year Law number 23 of 2014 concerning regional government, as well as PP number 12 of 2017 concerning the supervision and supervision of regional government administration almost has uniformity, namely proposing the dismissal of regional heads and deputy regional heads by the DPRD leadership to the President. This proposal is obtained from a series of supervisory processes. In the event that the DPRD leadership is unable to carry out this task, the proposal can be made by the Minister of Home Affairs.⁶

Research by Ida Ayu Putu and Ni Luh Gede Astariyani "Dismissal of Regional Heads Who Commit Criminal Offenses in Review of the Regional Government Law". This study discusses the dismissal of regional heads who commit criminal offenses in terms of the Regional Government Law. In carrying out its functions and duties, the regional head has the authority as specified in the laws and regulations. This research explains the position of the Governor as the head of the provincial regional government, the Regent as the head of the regency regional government and the mayor as the head of the city regional government. This study also discusses the temporary dismissal of provincial regional heads or deputy provincial regional heads, namely governors and deputy governors, carried out by the president on the proposal of the Minister of Home Affairs, while for the dismissal of district heads and deputy regents and mayors and deputy mayors is carried out by the Minister on the proposal of the Governor with the consideration of the DPRD.⁷

2. RESEARCH METHODS

This research used observation method. The observation method is a process with five senses observation, interviews are to get answers by asking questions, documentation is a record that has passed and literature study is to collect the documents needed. The research approach taken is an empirical juridical approach aimed at obtaining primary data and secondary data through field research and library research. The interview stage is a question and answer process carried out by two or more people face to face in research that takes place orally to obtain related information⁸. The observation method is a necessary thing and a necessity for the development of science.⁹ In carrying out the implementation of the observation method, researchers will collect data and interviews related to the dispute over the appointment of the

⁶ Abdullah Almeer Syahqeel Bawamenewi and Budiman Sinaga, *'Kajian Hukum Terhadap Pemberhentian Kepala Daerah Menurut Konstitusi Indonesia'*, *Jurnal Hukum & Pembangunan*, 48 (2018), 12.

⁷ Ida Ayu Putu and Ni Luh Gede Astariyani. (2020). *"Pemberhentian Kepala Daerah Yang Melakukan Tindak Pidana Ditinjau Dari Undang-Undang Pemerintahan Daerah"*. *Jurnal Hukum & Pembangunan*, p, 336–347.

⁸ Achmad, Perdana Rian, (2016), "Penelitian Hukum *Interdisipliner*", *Dalam Penelitian Hukum Interdisipliner: Sebuah Pengantar Menuju Sosio-Legal*, Yogyakarta: Thafa Media

⁹ Denzim, Norman K dan Lincoln Yvonna, (2019), *Handbook of Qualitative Reseaech*. Editions, New, Teller Road Thousand Oaks, California, USA: Sage Publication, Inc

Padang Lawas Regent. Observation activities are empirical scientific activities based on field facts and texts.¹⁰

3. RESULTS AND DISCUSSION

Contrarius Actus Principle in the Dispute over the Appointment of Acting Regent of Padang Lawas

3.1. Definition of *Contrarius Actus*

The principle of *contrarius* comes from Latin, namely consensus *Contrarius Actus*, which means the opposite action, contradictory law/*Contrarius Actus* is an action taken by a State administrative body or official who issues a State Administrative Decree by itself and automatically has the authority to cancel the decision of the State Administrative Decree.^{11,12} *Contrarius Actus* has the same legal force as *actus primus*, for example, the issuance of a law can only be revoked through the issuance of a law that explains the revoked or amended law and cannot be revoked through the regulations below it, administrative actions can only be canceled or changed with other administrative actions that explain it. Legal actions can only be canceled through other legal transactions and concrete actions are a contract agreement that can only be changed and canceled with a similar contract agreement.¹³

According to Philipus M. Hadjon and Tatiek Sri Djatmiati, the *Contrarius Actus* principle is an inherent authority of the State administrative body or official who issued the State administrative decision can also cancel the decision, even though the State administrative decision is not regulated regarding the usual safeguard clause.¹⁴ We can find this in the types of State administrative decisions that usually include a clause that reads "if in the future it turns out that there is an error or mistake, this decision will be reviewed".¹⁵

The *Contrarius Actus* principle can also be interpreted as who has the authority to issue rules, then he also has the authority to revoke these rules, then the state administrative body or official who issues the permit also has the authority to revoke the permit if there is a violation in the implementation of activities that require the permit.¹⁶ In this principle, it also fully defines that a regulation or letter issued by an institution or government official, the institution or official can cancel the regulation.

¹⁰ Adler, Patricia A dan Adler, Peter, (1987), *Membership Roles in Field Research*, Newbury Park, CA: Sage Publication

¹¹ Hawke Niel, Parpworth Niel, (1998), *Introduction To Administrative Law*, London: Cavendish Publishing Limited, The Glass House, Wharton Street

¹² Thontowi, J. (2019). *Hukum Inklusif Perspektif Indonesia*. Total Media.

¹³ Ismail, R. R. A. (2019). Problematika Peraturan Pengganti Undang-Undang Nomor 1 Tahun 2017 tentang Organisasi Masyarakat. *Mulawarman Law Review*, 64-75.

¹⁴ Amiruddin dan Zainal Asikin, (2014), *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, p. 174.

¹⁵ Tatiek, Philipus M Hadjon, (2009), *Argumentasi Hukum*, Yogyakarta: Gadjah Mada University Press

¹⁶ W, Nalle Victor Imanuel, 'Asas *contrarius Actus* Pada Perppu Ormas: Kritik Dalam Perspektif Hukum Administrasi Negara Dan Hak Asasi Manusia', Nomor 2, 4 (2017), 252.

From the understanding of the principle of *Contrarius Actus*, it means that no one can cancel a regulation or letter except the one who issued it.¹⁷

In the Medan State Administrative Court trial, the application of the *Contrarius Actus* Principle is very clear, this is in accordance with its interpretation, namely the State administrative body or official who issued the State Administrative Decree. In the appointment of acting regent of Padang Lawas regency Ahamad Zarnawi Pasa ribu, North Sumatra Governor Edy Rahmayadi clearly violated the principle of *Contrarius Actus*. This is because the Governor of North Sumatra has issued a new letter to cancel the letter stipulating the Padang Lawas Regent.

3.2. Position and Authority of the Regional Head in the Regional Government Implementation System

Article 59 of the Local Government Law explains that the head of the region is the head of government in a region that is the working area and position. Regional heads of regencies and cities, known as regents and mayors, carry out government affairs in accordance with the principle of decentralization. The regional head has the authority based on Article 65 paragraph 2 of the Government Law, namely submitting draft regional regulations, stipulating regional regulations after joint approval with the DPRD, stipulating regional head regulations and regional head decisions, taking certain actions in urgent circumstances, exercising other powers in accordance with the provisions of laws and regulations.

3.3. The process of governance in Indonesia according to Bagir Manan

namely (1) Centralization which is realized through deconcentration in local government, delegation of government authority by the central government to the head of the provincial region (governor) as the government's representative or to vertical agencies in certain areas (2) Decentralization is the transfer of central government authority to autonomous regions to regulate and manage government affairs in the NKRI system (3) Assistance tasks are assignments from the government to regions or villages from the provincial government to districts / cities and villages and from district / city governments to villages to carry out certain tasks.¹⁸

The temporary dismissal of regional heads is not carried out by the same official, for governors and deputy governors dismissed by the President. For regional heads of regents and deputy regents, they are dismissed by the Minister. Article 78 of the Regional Government Law explains that the regional head and deputy regional head cease from their positions due to death, at their own request and dismissal. In this article, the dismissal is not for reasons of committing a criminal offense but for other reasons, such as the expiration of the term of office, not carrying out duties consecutively and continuously during the period determined by laws and regulations, violating the oath / promise of office. Law number 23 of 2014 concerning local government has several procedures and mechanisms for dismissal from office:

¹⁷ Kamus Istilah Hukum, (2021), *Sumber Rujukan Peristilahan Hukum* (Alex (ed.); Cetakan ke). Penerbit Medpress Digital

¹⁸ Sirajajuddin dan Winardi, (2015), *Dasar-Dasar Hukum Tata Negara Indonesia*, Setara Press, Malang, p. 332.

1. In article 78 paragraph (2), the regional head and / or deputy regional head is dismissed as referred to in paragraph (1) letter c because: a. the end of his/her term of office; b. unable to carry out his/her duties on an ongoing basis or permanently absent consecutively for 6 (six) months; c. declared to have violated the oath/pledge of office of the regional head/deputy regional head; d. not carrying out the obligations of the regional head and deputy regional head as referred to in Article 67 letter b; e. violating the prohibition for regional heads and deputy regional heads as referred to in Article 76 paragraph (1), except letter c, letter i, and letter j; f. committing a disgraceful act; g. being assigned to a certain position by the President that is prohibited to be concurrently held by the President by virtue of Article 76 paragraph (1). commits a disgraceful act; g. is assigned to a certain position by the President which is prohibited to be concurrently held by the provisions of laws and regulations; h. uses false documents and/or information as a requirement during the nomination of regional head/deputy regional head based on evidence from an institution authorized to issue documents; and/or i. receives a dismissal sanction.

2. Article 83 paragraph (1) The regional head and/or deputy regional head shall be temporarily dismissed without a proposal from the Regional House of Representatives (DPRD) because they are charged with committing a criminal offense punishable by imprisonment of at least 5 (five) years, criminal acts of corruption, criminal acts of terrorism, treason, criminal acts against state security, and/or other acts that can divide the Unitary State of the Republic of Indonesia. (2) Regional heads and/or deputy regional heads who become defendants as referred to in paragraph (1) shall be temporarily dismissed based on the case register in court. (3) The temporary suspension of regional heads and/or deputy regional heads as referred to in paragraph (1) and paragraph (2) shall be carried out by the President for governors and/or deputy governors and by the Minister for regents and/or deputy regents or mayors and/or deputy mayors. (4) The regional head and/or deputy regional head shall be dismissed without a proposal from the DPRD if proven to have committed a criminal offense as referred to in paragraph (1) based on a court decision that has obtained permanent legal force. (5) The dismissal as referred to in paragraph (4) shall be carried out by the President for governors and/or deputy governors and by the Minister for regents and/or deputy regents or mayors and/or deputy mayors.

3. Article 80 paragraph (1) The dismissal of regional heads and/or deputy regional heads as referred to in Article 78 paragraph (2) letter c, letter d, letter e, and/or letter f shall be carried out with the following provisions The dismissal of the regional head and/or deputy regional head is proposed to the President for governors and/or deputy governors and to the Minister for regents and/or deputy regents or mayors and/or deputy mayors based on the Supreme Court's decision on the opinion of the DPRD that the regional head and/or deputy regional head has violated the oath/pledge of office, has not carried out the obligations of the regional head and/or deputy regional head as referred to in Article 67 letter b, or has violated the prohibition for the regional head and/or deputy regional head as referred to in Article 76 paragraph (1), except letter c, letter i, letter j, and/or has committed a disgraceful act..

Thus, every official in organizing government administration must be based on the Principle of Legality, the Principle of Protecting Human Rights, and the General Principles of Good Government (AUPB) in accordance with article 5 of Law No. 30 of 2014 concerning Government Administration. Article 8 explains the ethics of government in exercising authority:

1. Every Decision and/or Action must be determined and/or carried out by an authorized Government Agency and/or Official.
2. Government Bodies and/or Officials in using Authority must be based on: a. laws and regulations and b. AUPB.
3. Government Administration Officials are prohibited from abusing the Authority in determining and/or carrying out Decisions and/or Actions.

3.4. Appointment and Dismissal of Leaders in Fiqh Siyasa

In the science of Fiqh Siyasa there are procedures for the state, how the criteria for leaders must be elected and how the criteria for leaders who must be dismissed from office. If we analyze the case of the dismissal of the Padang Lawas regent by the interior ministry, it cannot be separated from the concept of Fiqh Siyasa. In the book *Al-Ahkam al-Sulthaniyah* explains that a leader can be replaced / terminated from office there are two reasons, namely: (1) Due to death / death, (2) due to dismissal from office.¹⁹

There are several objects of discussion of fiqh siyasa, namely:

1. *Siyasa Dusturiyyah* or modern fiqh called constitutional law
2. *Siyasa Dauliyyah* or called international law in Islam
3. *Siyasa Maliyyah* is a law that regulates the income, management and expenditure of money belonging to the State.²⁰

Thus *Siyasa Dusturiyyah* discusses the relationship between the leader and his people and the institutions that exist in the State in accordance with the needs of the people for the benefit of the people and the fulfillment of the needs of the people themselves. *Dusturi* comes from Persian which means someone who has authority, both in politics and religion. Along with its development into Arabic, the word *dusturi* has the meaning of being a basic principle or guidance. In shari'ah, the term *fiqh dustury* is used to mean the main principles for the government of any country, as evidenced in its laws, regulations and customs.²¹

¹⁹ Imam Al-Mawardi, *Al-Ahkam Assulthaniyyah, penerjemah Fadli Bahri*, (Jakarta, Darul Falah, 2017).

²⁰ Wahyudin. Dkk, *Pendidikan Agama Islam*, (Jakarta; Grasindo, 2009)

²¹ Imam Amrusi Jailani dkk, *Hukum Tata Negara Islam'* (Surabaya: IAIN Press, 2011).

According to Imam Al-Mawardi dismissal of the leader from office is when a leader is no longer able to qualify as a leader and has committed acts that harm the state as well as the destruction of the credibility of the head of state and the imperfection of the limbs either it happened when he served or before serving as leader. If a leader has been proven to violate the law that is not in accordance with Al-Qur'an and al-Sunnah or already does not qualify as a leader then it can be dismissed from leadership, but the problem is who has the right to dismiss the leader because the provisions of the Qur'an and as-Sunnah have not regulated concretely about the mechanism of dismissal of a leader, as well as who has the authority to dismiss him. In the history of Islam during the time of the Khulafah Ar-Rashidin, this has never happened.

In the view of Islam, the law of choosing a leader is mandatory if certain conditions are met. This is based on several arguments from the Qur'an and the Prophet's hadith. One of the arguments from the Qur'an is the Word of Allah Taala: "And their affairs (Muslims) are by deliberation among them" (QS. Ash-shura: 38). This indicates that Muslims must conduct deliberations or consultations in managing their affairs, including leadership affairs. In the Hadith narrated by Abu Daud from Aburoiroh, "If three people are traveling, they should appoint one of them as leader". This Hadith shows that even in small groups the Prophet SAW recommended having a leader in order to create order and benefit.

Islamic political thinkers propose three institutions that have the authority to make decisions to remove the leader, namely the Mazhalim Court (the highest authority in the field of justice) must be based on the recommendation of the High Constitutional Council which states that the leader has violated Shari'a or the constitution of the results of consensus or majority agreement that assesses the behavior of a leader or his assistants based on a request from the shura assembly or Ahl al-Hall Wa al-Aqd.²²

The dismissal of the Regent of Padang Lawas with the emergence of problems between the regent and the deputy regent of Padang Lawas over the issuance of a letter issued by the Governor of North Sumatra number 132/12201/2021 concerning the deputy regent of Padang Lawas as acting regent of Padang Lawas, the contents of the letter lacked careful consideration and seemed hasty as evidenced by not checking the actual health of the regent. The issuance of the letter issued by the Governor of North Sumatra resulted in the regent no longer being able to carry out his duties and authorities and functions as the Regent of Padang Lawas comprehensively. The delegation of authority of the Regent of Padang Lawas to the Deputy Regent of Padang Lawas without conducting a health examination of the regent first so that the issuance of the aquo letter is considered legally flawed and an abuse of authority violates Article 17 paragraph (1) which reads "Government agencies and / or officials are prohibited from abusing authority and paragraph (2) reads the prohibition of abuse of authority as referred to in paragraph (1) includes: (a) Prohibition of exceeding authority, (b) prohibition of mixing authority and (3) prohibition of acting arbitrarily. Law No. 30 of 2014 concerning Government Administration.

²² Imam, S. (2019). Asas contrarius actus sebagai kontrol pemerintah terhadap kebebasan berserikat dan berkumpul di Indonesia. *MimbarKeadilan*, 12 (2), 181-195.

Even in the decision of the Medan State Administrative Court filed by the Regent of Padang Lawas (Ali Sutan Harahap) hereinafter referred to as the plaintiff with the first defendant the Governor of North Sumatra (Edi Rahmayadi), the second defendant Acting Regent of Padang Lawas (Ahmad Zarnawi Pasaribu). With the result of verdict No: 59/G/2022/PTUN.MDN with the result of rejecting the defendant's exclusion in its entirety, with the result of the subject matter of the case:

1. Grant the plaintiff's claim in its entirety
2. Declare invalid the letter of the Governor of North Sumatra no: 132/12201/2021 dated November 24, 2021 regarding the Deputy Regent of Padang Lawas as the acting Regent of Padang Lawas
3. Obligating the defendant to revoke the letter of the Governor of North Sumatra No: 132/12201/2021 dated November 24, 2021 regarding the Deputy Regent of Padang Lawas as the acting Regent of Padang Lawas
4. Punish the defendant and the two intervening defendants to pay court costs in the amount of IDR 698,300 (Six Hundred Ninety Eight Thousand Three Hundred Rupiah).

Thus, Indonesian positive law and Fiqh Siyasa and the *Contrarius* Principle conveyed by Margarito khamis as an expert witness conveyed that the issuance of the disputed object letter has violated the *Contrarius Actus* Principle and until now the object of this dispute is still under appeal at the Medan State Administrative Court. Regarding these issues, in the author's opinion, a judicial review is needed on Article 78 paragraph 2 part b, namely being unable to carry out duties on an ongoing basis or being permanently unable to work consecutively for 6 months. By explaining the specific and clear class of illness.

4. CONCLUSION

The supervision of the head of the district is carried out at the same time by the same official, including the head of the district of regent and the deputy head of the district of regent is supervised by the Minister. Thus, every official in administering the administration of government must be based on the principle of legality, the principle of respect for human rights, and the principle of good governance (AUPB). In article 78 paragraph (2), the regional head and / or deputy regional head is dismissed as referred to in paragraph (1) letter c because: a. the end of his/her term of office; b. unable to carry out his/her duties on an ongoing basis or permanently absent consecutively for 6 (six) months; c. declared to have violated the oath/pledge of office of the regional head/deputy regional head; d. not carrying out the obligations of the regional head and deputy regional head as referred to in Article 67 letters b, e. the regional head and/or deputy regional head as referred to in Article 78 paragraph (1). Article 80 paragraph (1) The dismissal of the regional head and/or deputy regional head as referred to in Article 78 paragraph (2) letter c, letter d, letter e, and/or letter f shall be carried out with the following provisions: a. The dismissal of the regional head and/or deputy regional head is proposed to the President for governor and/or deputy governor and to the Minister for regent and/or deputy regent or mayor and/or deputy mayor based on the decision of the Supreme Court on the opinion of the DPRD that

the regional head and/or deputy regional head has violated the oath/pledge of office, failed to carry out the obligations of the regional head and/or deputy regional head as referred to in Article 67 letter b, or violated the prohibition for the regional head and/or deputy regional head as referred to in Article 76 paragraph (1), except letter c, letter i, letter j, and/or committed disgraceful acts.

5. REFERENCES

Books:

- Rian, P. A. (2016). *Penelitian Hukum Interdisipliner. Dalam Penelitian Hukum Interdisipliner: Sebuah Pengantar Menuju Sosio-Legal*. Yogyakarta: Thafa Media.
- Adler, Patricia, A dan Adler, Peter. (1987). *Membership Roles in Field Research*. Newbury Park. CA: Sage Publication.
- Adrian, W. Bedneer. (2014). *Kajian Sosio-Legal*. Jakarta: Universitas Indonesia. Universitas Leiden. Univerisitas Groningen.
- Al-Mawardi. (2017). *Al-Ahkam Assulthaniyyah*. penerjemah Fadli Bahri. Jakarta: Darul Falah.
- Amiruddin dan Asikin, Z. (2014). *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada.
- Ateng, Sjarifuddin. (2014). *Perizinan Untuk Berbagai Kegiatan*. Jakarta: Raja Grafindo Persada.
- Denzim, Norman, K dan Yvonna, L. (2019). *Handbook of Qualitative Reseaech*. Editions. New. Teller Road Thousand Oaks. California. USA: Sage Publication Inc.
- Niel, H. dan Niel, Z. (1998). *Introduction To Administrative Law*. London: Cavendish Publishing Limited. The Glass House. Wharton Street.
- Jailani, I. A. (2011). *Hukum Tata Negara Islam*. Surabaya: IAIN Press.
- Jimly dan Asshiddiqie. (2007). *Hukum Tata Negara Darurat*. Jakarta: PT. Raja Grafindo Persada.
- Fadhil Lubis, A. F. (2000). *A History of Islamic Law in Indonesia*. Medan: IAIN Press.
- Ridwan, H. R. (2011). *Hukum Administrasi Negara, Edisi Revisi*. Jakarta: Raja Grafindo Persada.
- Sirajajuddin dan Winardi. (2015). *Dasar-Dasar Hukum Tata Negara Indonesia*. Malang: Setara Press. Malang.
- Tatiek, Hadjon, P. M. (2009). *Argumentasi Hukum*. Yogyakarta: Gadjah Mada University Press.

Utrecht, E. (1988). Pengantar Hukum Administrasi Negara. Surabaya: Pustaka Tinta Mas.

Wahyudin. (2009). Pendidikan Agama Islam. Jakarta: Grasindo.

Thontowi, J. (2019). Hukum Inklusif Perspektif Indonesia. Jakarta: Total Media.

Tobing, D. M. L. (2019). Klausula Baku: Paradoks dalam Penegakan Hukum Perlindungan Konsumen (1st ed.). Gramedia. Viswandro.

Hukum, K. I. (2021). Sumber Rujukan Peristilahan Hukum (Alex (ed.); Cetakan ke). Jakarta: Medpress Digital.

Fikri dan Reza, Z. (2014). Eksistensi Dan Prospek Pengaturan Perppu Dalam Sistem Norma Hukum Negara Republik Indonesia. Nomor 4. 8. P. 670.

Journals:

Amriani, N. (2021). Hak Gugat Pemerintah Kota Langsa: Upaya Perlindungan Hutan Mangrove Dalam Rangka Menegakkan Prinsip Keadilan Intra Dan Antar Generasi. *Jurnal Hukum Samudra Keadilan*, 16(1), 112-122.

Fitra dan Arsil. (2018). Menggagas Pembatasan Pembentukan Dan Materi Muatan Perppu: Studi Perbandingan Pengaturan Dan Penggunaan Perppu Di Negara-Negara Presidensial. *Jurnal Hukum & Pembangunan*. 48. p. 12.

Immanuel, N. V. W. (2017). Asas *Contrarius Actus* Pada Perppu Ormas: Kritik Dalam Perspektif Hukum Administrasi Negara Dan Hak Asasi Manusia. Nomor 2. p. 252.

Sinaga, N. A. (2020). Perspektif Force Majeure Dan Rebus Sic Stantibus Dalam Sistem Hukum Indonesia. *Jurnal Ilmiah Hukum Dirgantara*, 11(1), 1-27.

Suryahartati, D. (2019). Perjanjian Penitipan Barang Dalam Pengelolaan Parkir Bagi Perlindungan Konsumen Di Indonesia. *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An*, 2(2), 252.

Syalom W. J. Gerungan, Anna Wahongan, R. L. (2022). Pertanggungjawaban Perdata Pengelola Parkir Terhadap Kendaraan Konsumen. *Lex Administratum*, 10(5), 8.

Syarifa, R., Rahmawati, L., Andini, P. F., Simanjuntak, M., & Anggraini, A. M. (2022). Menyelidik Isu Perlindungan Konsumen pada Klausula Eksonerasi di Sektor Jasa Keuangan dan Retail dengan Pendekatan Mixed Methods. *Jurnal Ilmu Keluarga Dan Konsumen*, 15(2), 178-191.

Tarmizi, T. (2020). The Principle of Consensualism and Freedom of Contract as a Reflection of Morality and Legal Certainty of Contract Laws in Indonesia. *Webology*. 17(2), 336-347.

- Novita, B. S. (2021). Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital. *Pembangunan Hukum Indonesia*, 3(1), 48.
- Imam, S. (2019). Asas *contrarius actus* sebagai kontrol pemerintah terhadap kebebasan berserikat dan berkumpul di Indonesia. *Mimbar Keadilan*, 12 (2), 181-195.
- Ismail, R. R. A. (2019). Problematika Peraturan Pengganti Undang-Undang Nomor 1 Tahun 2017 tentang Organisasi Masyarakat. *Mulawarman Law Review*, 64-75.
- Khairunnisyah, S. (2022). Akibat Hukum Yang Timbul Atas Tindakan Penyelenggaraan Satuan Pendidikan Tinggi Tanpa Izin Di Indonesia (Studi Putusan Nomor 130/Pid. Sus/2016/PN-TBK). (Doctoral dissertation).
- Priyanto, N. (2009). Tinjauan Yuridis Wanprestasi Pada Perjanjian Leasing (Studi Kasus di PT. Dharmatama Megah Finance Cabang Surakarta) (Doctoral dissertation, Universitas Muhammadiyah Surakarta).

Regulation:

Hukum Hak Asasi Manusia (Yogyakarta: PUSHAM UII: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII), 2008).