



Regulatory Uncertainty in Administrative Appeals for Business Licensing Disputes: A Legal Analysis of Indonesia's Administrative Justice System

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ARTICLE INFO

Keywords: Regulatory Uncertainty, Administrative Appeals for Business Licensing Disputes, A Legal Analysis of Indonesia's Administrative Justice System

Received : 27, July

Revised : 20, August

Accepted: 25, September

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ABSTRACT

The unclear arrangement of administrative appeals in business licensing disputes in Indonesia raises problems regarding legal certainty and the effectiveness of legal protection for the public and business actors. Although Law Number 30 of 2014 concerning Government Administration has regulated administrative efforts, its regulation is not yet fully aligned with the Law on State Administrative Justice, Law Number 6 of 2023 concerning Job Creation, Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing, as well as various sectoral regulations. This study aims to analyze the form of unclear administrative appeal arrangements in business licensing disputes and formulate a regulatory concept that provides legal certainty and convenience for the community. The research uses normative legal methods with a legislative approach, a conceptual approach, and a case approach. Legal materials are analyzed qualitatively through grammatical, systematic, and teleological interpretations. The results of the study show that the disharmony of regulations regarding obligations, procedures, authority, and legal consequences of administrative appeals causes legal uncertainty and has the potential to hinder the resolution of business licensing disputes. Therefore, it is necessary to harmonize laws and regulations that uniformly regulate the administrative appeal mechanism by prioritizing the principles of legal certainty, legal protection, good public services, and general principles of good governance in order to realize an effective administrative dispute resolution system and support the ease of doing business in Indonesia.

INTRODUCTION

Business licensing is a legal instrument of state administration that has a strategic function in the administration of government and economic development. Through the licensing mechanism, the government not only provides legality for business actors to carry out their business activities, but also carries out the functions of control, supervision, and protection of the public interest. Therefore, the business licensing system must be built based on the principles of legal certainty, transparency, accountability, efficiency, and good public services in order to be able to create a conducive investment climate while ensuring the protection of people's rights. Reform of the licensing system through the implementation of risk-based business licensing (Risk-Based Approach) and digitalization through the Online Single Submission (OSS) system is the government's effort to simplify licensing procedures and improve the ease of doing business in Indonesia. However, the reform also raises various administrative legal issues, especially related to the dispute resolution mechanism for business licensing decisions (Erly Aristo, Marchethy Riwani Diaz, 2024).

In the Indonesian administrative law system, the settlement of administrative disputes in principle prioritizes the mechanism of administrative efforts before settlement through the State Administrative Court (PTUN). Law Number 30 of 2014 concerning Government Administration stipulates that administrative efforts consist of administrative objections and appeals as a means for officials or superiors to review government decisions or actions (Wiranti, 2023). The mechanism aims to provide opportunities for government administration to make internal corrections, reduce the judicial burden, and realize faster, simpler, and low-cost dispute resolution (Erna Dwi Safitri, 2021).

However, the regulation regarding administrative appeals in business licensing disputes still leaves various normative problems. Various laws and regulations governing business licensing have not provided uniform arrangements regarding the existence, procedures, institutions authorized to inspect, the period of settlement, and the legal consequences of administrative appeals. In some sectors, regulations only regulate the objection mechanism, while in others they do not regulate administrative efforts at all. On the other hand, there are differences in regulations between the Government Administration Law, the State Administrative Justice Law and its amendments, as well as various sectoral regulations regarding business licensing. This condition creates uncertainty about whether administrative appeals are legal remedies that must be taken before filing a lawsuit to the PTUN or only an option for the aggrieved party. This ambiguity has the potential to reduce legal certainty, prolong the dispute resolution process, and affect the effectiveness of legal protection for business actors.

This problem is becoming increasingly important along with the increasing use of the OSS-RBA system as the main instrument for the implementation of business licensing. Service digitization has indeed succeeded in improving administrative efficiency, but it has not been fully followed by the harmonization of administrative dispute resolution mechanisms. As a result, when there is a

dispute over business licensing decisions, both business actors and government officials often face uncertainty regarding the settlement procedures that must be taken. This condition not only has implications for the protection of the rights of business actors, but also affects the quality of governance, investment certainty, and the effectiveness of the administrative justice system (Bimasakti, 2019).

Previous studies have mostly discussed the reform of the business licensing system, the implementation of OSS-RBA, bureaucratic simplification, and government authority in issuing permits. Meanwhile, studies that specifically analyze the unclarity of administrative appeal arrangements in business licensing disputes are still relatively limited. In fact, clarity in the regulation of administrative efforts is one of the important prerequisites in realizing legal certainty, legal protection, and the effectiveness of resolving administrative disputes. Thus, there are still research gaps that need to be studied, especially regarding the construction of administrative appeal law in business licensing disputes and its implications for the administrative justice system in Indonesia (Chika Fatika Sari, 2025).

Based on these problems, this study aims to analyze the administrative appeal arrangement in business licensing disputes in Indonesia, identify forms of unclear norms contained in various laws and regulations, and formulate the concept of administrative appeal arrangement that is able to provide legal certainty, strengthen legal protection for business actors, and realize effective administrative dispute resolution in the legal system administration of Indonesia.

THEORETICAL REVIEW

Legal Certainty Theory

Legal certainty is one of the fundamental principles in the state of law that requires that every legal norm be formulated clearly, not multi-interpreted, consistent, and can be applied effectively. Gustav Radbruch stated that legal certainty is one of the three basic values of law besides justice and utility. Legal certainty provides a guarantee that every legal subject can know the rights, obligations, and legal consequences of every action taken. In state administrative law, legal certainty is the basis for government administrators to issue administrative decisions and provide legal protection to citizens against government actions (Hari Sugiharto, 2018).

In the context of business licensing disputes, legal certainty is closely related to the clarity of the regulation regarding the mechanism of administrative efforts, especially administrative appeals. Unclear norms regarding procedures, authorities, and legal consequences of administrative appeals have the potential to create uncertainty for business actors and government officials, thereby reducing the effectiveness of legal protection.

Legal Protection Theory

The concept of *good governance* places the administration of government as a process that must be carried out based on the principles of transparency, accountability, legal certainty, participation, effectiveness, efficiency, and

responsiveness. The United Nations Development Programme (UNDP) emphasizes that the *rule of law* is one of the main indicators in realizing good governance (Kaufmann, D., Kraay, A., & Mastruzzi, 2011).

In the implementation of business licensing, the application of *the principle of good governance* is not only realized through simplifying public service procedures, but also through the provision of a clear, fast, simple administrative dispute resolution mechanism that is clear, fast, simple, and provides adequate legal protection to the community. Therefore, the lack of clarity in the administrative appeal arrangement shows that the application of *good governance principles* in the business licensing system in Indonesia is not optimal.

METHODOLOGY

This research is a normative legal research that aims to examine the legal arrangements regarding administrative appeals in business licensing disputes in Indonesia. Normative legal research places law as a system of norms that is analyzed through laws and regulations, doctrines, court decisions, and legal principles to assess the consistency, suitability, and adequacy of norms in providing legal certainty to the problem being studied. This approach was chosen because the focus of the research was directed at the identification of unclear administrative appeal arrangements and their implications for the settlement of business licensing disputes (Sonata, 2015).

The research uses several approaches, namely the statute approach, the conceptual approach, and the case approach. The approach to laws and regulations is carried out by examining various provisions that govern government administration, state administrative dispute resolution, and business licensing to identify the existence of harmony and disharmony between regulations. The conceptual approach is used to examine various legal doctrines and theories related to legal certainty, legal protection, administrative efforts, administrative appeals, and general principles of good governance as the basis for analysis. The case approach is carried out through a study of the decisions of the State Administrative Court related to licensing disputes to find out how administrative appeal arrangements are applied in judicial practice.

RESULTS and DISCUSSION

Administrative Appeal Rules in Business Licensing Disputes Are Still Confusing and Not Uniform Between Laws and Regulations

Administrative appeal is a form of administrative effort provided by the administrative legal system as a means of resolving disputes before being pursued through judicial mechanisms. This concept is based on the principle that government agencies or officials are given the opportunity to make corrections to decisions or administrative actions that have been issued, so that dispute resolution can be carried out quickly, simply, and efficiently without having to directly involve the litigation process. In the practice of government administration, the administrative appeal mechanism also reflects the application of the principles of effectiveness, efficiency, and legal protection to citizens and business actors (Syafrijal Latief, 2020).

Problems arise when the regulation regarding administrative appeals in business licensing disputes is not regulated consistently in various laws and regulations. Law Number 30 of 2014 concerning Government Administration recognizes the existence of administrative efforts consisting of administrative objections and appeals as a dispute resolution mechanism within the government administration. However, the law does not provide detailed provisions on the procedures for conducting administrative appeals against all types of administrative decisions, including decisions related to business licensing. These general regulations then raise the need for further regulation in sectoral regulations (Sirojudin, 2022).

Law Number 5 of 1986 concerning the State Administrative Court as last amended by Law Number 51 of 2009 stipulates that administrative efforts must only be taken if it is expressly determined by the laws and regulations that are the basis for the issuance of state administrative decisions. The arrangement shows that the existence of administrative appeals is not automatic to all administrative decisions, but depends on the arrangements in each sector. As a result, there are differences in dispute resolution mechanisms between one type of licensing and another.

This inconsistency is increasingly visible after the enactment of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law along with Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. The two regulations further regulate the simplification of licensing procedures, classification of business risk levels, and digitization of services through the Online Single Submission Risk-Based Approach (OSS-RBA) system. However, the regulation regarding the administrative appeal mechanism against business licensing decisions has not been comprehensively regulated. The regulation does not explicitly explain the institution authorized to examine administrative appeals, the submission procedure, the deadline for completion, legal consequences during the appeal process, or the relationship between administrative appeals and lawsuits to the State Administrative Court.

This condition causes normative disharmony because there is a difference in regulation between the Government Administration Law that recognizes the existence of administrative appeals as part of administrative efforts and various sectoral regulations that do not regulate or even ignore these mechanisms. As a result, there is no certainty about whether business actors are obliged to take an administrative appeal before filing a lawsuit with the State Administrative Court or can directly file a lawsuit without going through this mechanism. This ambiguity has the potential to cause differences in interpretation among administrative officials, business actors, and judges in examining business licensing disputes.

Supreme Court Regulation Number 6 of 2018 concerning Guidelines for Settlement of Government Administrative Disputes After Taking Administrative Efforts basically provides guidelines for the settlement of administrative disputes after administrative efforts have been made. However, the regulation does not fill the void of norms regarding when administrative appeals must be taken and when

such efforts can be set aside in business licensing disputes. The PERMA regulates procedural aspects in the judicial environment rather than establishing new norms regarding administrative appeal obligations. Thus, the ambiguity at the legal level remains unresolved (Wahyu Desiana, Zamroni Abdussamad, 2026).

From the perspective of legal certainty, this condition is contrary to the principle that every law and regulation must be formulated clearly, consistently, and not give rise to multiple interpretations. The inconsistency of regulation causes business actors to experience difficulties in determining the dispute resolution mechanism that must be pursued when their rights are harmed by licensing decisions. On the other hand, government officials also face uncertainty regarding the obligation to provide an administrative appeal mechanism in each type of licensing under their authority. As a result, the main goal of administrative efforts as a fast, cheap, and effective dispute resolution instrument cannot be achieved optimally.

Based on these conditions, it is necessary to harmonize the arrangements regarding administrative appeals in business licensing disputes through a more firm and uniform arrangement. The harmonization must include clarity on the scope of the decision that can be appealed administratively, the institution authorized to review, the procedure and time frame for resolution, the legal consequences of filing an appeal, and the relationship between administrative efforts and lawsuits to the State Administrative Court. Comprehensive regulation will provide legal certainty for business actors, increase the effectiveness of administrative dispute resolution, and support the realization of business licensing governance that is transparent, accountable, and oriented towards the protection of people's rights.

Administrative Appeal Rules That Are Fair and Do Not Make It Difficult for the Community to Manage Licensing

The existence of an administrative appeal mechanism is essentially an instrument of legal protection for the public against government administrative decisions or actions that are considered detrimental to their rights. In the state of law, every citizen and business actor must be given access to a dispute resolution mechanism that is easy, fast, simple, and provides legal certainty. Therefore, the administrative appeal arrangement should not be a new obstacle that actually prolongs the dispute resolution process, increases costs, or creates uncertainty in obtaining business licensing services.

The principle of public service implementation as stipulated in Law Number 25 of 2009 concerning Public Services requires that every service provided by the government meets the principles of convenience, affordability, time certainty, transparency, accountability, and justice. These principles should also be the basis for setting up an administrative appeal mechanism. This means that the administrative appeal procedure must be designed simply, easy to understand by the public, have a clear settlement deadline, and not impose excessive administrative requirements on the applicant (Jufri, 2017).

In practice, the administrative appeal mechanism still faces various obstacles. Not all sectoral regulations regulate administrative appeal procedures in detail, so the public often has difficulties in determining which institution is authorized to

receive appeals, submission procedures, documents that must be met, and the completion period. This lack of clarity causes people to have to seek information from various agencies, and it is not uncommon to immediately file a lawsuit with the State Administrative Court because they are not aware of the available administrative efforts. This condition shows that the administrative appeal mechanism has not fully provided access to *justice* as expected in the implementation of good governance.

Administrative appeal arrangements need to avoid multi-layered and repetitive procedures. Administrative efforts that are too long without a strict deadline for completion have the potential to hinder business activities, increase transaction *costs*, and delay investment realization. For business actors, delays in obtaining certainty on licensing status can cause economic losses, reduce investor confidence, and have an impact on declining national competitiveness. Therefore, the administrative appeal mechanism should be positioned as an effective means of dispute resolution, not as a bureaucratic procedure that slows down licensing services.

From the perspective of state administrative law, the ideal administrative appeal mechanism must provide a balance between the protection of the rights of the community and the government's interest in maintaining administrative order. Administrative appeals not only function as a means of internal correction to administrative decisions, but also as an evaluation instrument to improve the quality of decision-making by government agencies or officials. Thus, every appeal must be examined objectively, independently, and based on the general principles of good governance, especially the principles of legal certainty, thoroughness, openness, non-abuse of authority, and good service.

Administrative appeal arrangements also need to accommodate the development of electronic-based government systems. Along with the implementation of the Online Single Submission Risk-Based Approach (OSS-RBA) system, the process of submission, examination, and submission of administrative appeal decisions should be carried out electronically through an integrated system. The digitization of the administrative appeal mechanism not only speeds up the dispute resolution process, but also increases transparency, facilitates monitoring of application status, reduces maladministration practices, and expands public access to government services.

In order to realize an administrative appeal mechanism that is fair and does not make it difficult for the community, it is necessary to harmonize regulations in all laws and regulations related to business licensing. The harmonization must at least contain uniformity regarding the type of decision that can be filed by administrative appeals, the institution authorized to examine, the procedure for submission, the deadline for resolution, the legal consequences during the appeal process, and the relationship between administrative appeals and dispute resolution in the State Administrative Court. Clear and uniform arrangements will provide legal certainty for the community, increase the effectiveness of administrative dispute resolution, and support the creation of business licensing governance that is oriented towards public services, protection of citizens' rights, and ease of doing business in Indonesia.

CONCLUSIONS AND RECOMMENDATIONS

The administrative appeal arrangement in business licensing disputes in Indonesia still shows the existence of ambiguity and disharmony between laws and regulations. Although Law Number 30 of 2014 concerning Government Administration has regulated administrative efforts as a dispute resolution mechanism before the judicial process, the regulation has not been consistently integrated with the State Administrative Justice Law, the Job Creation Law and its implementing regulations, as well as various sectoral regulations in the field of business licensing. As a result, there are still differences in regulations regarding the obligation to take administrative appeals, the procedures for their implementation, the authorized institutions, and the legal consequences of administrative appeals. This condition creates legal uncertainty, has the potential to cause differences in interpretation, and reduces the effectiveness of legal protection for the public and business actors.

In order to realize an administrative dispute resolution system that provides legal certainty and supports ease of doing business, it is necessary to reconstruct administrative appeal arrangements through the harmonization of laws and regulations. The regulation must clearly regulate the scope of decisions that can be appealed administratively, the procedures and deadlines for settlement, the institution authorized to examine, the legal consequences during the appeal process, and the relationship between administrative efforts and lawsuits to the State Administrative Court. In addition, the administrative appeal mechanism needs to be organized based on the principles of legal certainty, legal protection, good public services, and general principles of good governance, and supported by an integrated electronic service system. Thus, administrative appeals can function as a fast, simple, low-cost dispute resolution instrument, and be able to provide effective legal protection without hindering business and investment activities in Indonesia.

REFERENCES

- Bimasakti, M. A. (2019). LAWSUIT IN ADMINISTRATIVE COURT AFTER ADMINISTRATIVE PROCEEDINGS BASED ON PERMA NO. 6 OF 2018. *Jurnal Hukum Dan Peradilan*, 8(3).
<https://doi.org/https://doi.org/10.25216/jhp.8.3.2019.458-480>
- Chika Fatika Sari, S. A. P. R. (2025). Analisis Penerapan OSS Berbasis Risiko dalam Mewujudkan Kepastian Hukum bagi Investor di Indonesia. *Jurnal Ilmiah Nusantara*, 2(3).
<https://doi.org/https://doi.org/10.61722/jinu.v2i3.4556>
- Erly Aristo, Marchethy Riwani Diaz, J. K. P. (2024). Risk-Based Licensing Arrangements: Between Convenience and Legal Certainty. *Journal of Judicial Review (JJR)*, 20(1).
<https://doi.org/https://doi.org/10.30996/dih.v20i1.9725>
- Erna Dwi Safitri, N. S. (2021). Penerapan Upaya Administratif Dalam Sengketa Tata Usaha Negara. *Jurnal Pembangunan Hukum Indonesia*, 3(1).
<https://doi.org/Jurnal Pembangunan Hukum Indonesia>
- Hari Sugiharto, B. O. A. (2018). Upaya Administratif Sebagai Perlindungan Hukum Bagi Rakyat Dalam Sengketa Tata Usaha Negara. *Arena Hukum*, 11(1).
<https://doi.org/https://doi.org/10.21776/ub.arenahukum.2018.01001.2>
- Jufri, H. M. (2017). Legal Principles for Public Service of Indonesia Based on the Act of Number of 25 of 2009. *Journal of Law, Policy and Globalization*, 61.
<https://doi.org/https://www.iiste.org/Journals/index.php/JLPG/article/view/37131>
- Kaufmann, D., Kraay, A., & Mastruzzi, M. (2011). The Worldwide Governance Indicators: Methodology and Analytical Issues. *Hague Journal on the Rule of Law*, 3(2).
<https://doi.org/Hague Journal on the Rule of Law>
- Sirojudin, M. R. (2022). Administrative Appeal Efforts in Indonesian Administrative Dispute Resolution After the Government Administration Law (Pre-Omnibus Law). *Ahmad Dahlan Legal Perspective*, 2(2).
<https://doi.org/Ahmad Dahlan Legal Perspective>
- Sonata, D. L. (2015). Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum. *Fiat Justisia: Jurnal Ilmu Hukum*, 8(1).
<https://doi.org/https://doi.org/10.25041/fiatjustisia.v8no1.283>

- Syafrijal Latief, A. E. C. (2020). *Penerapan Penyelesaian Sengketa Tata Usaha Negara Melalui Upaya Administrasi: Perbandingan Indonesia, Australia Dan Belanda*. 22(2). <https://doi.org/https://doi.org/10.37253/jjr.v22i2.1497>
- Wahyu Desiana, Zamroni Abdussamad, E. R. (2026). Reconstructing Administrative Remedies from the Perspective of Administrative Justice Principles and Legal Certainty. *Journal of Public Representative and Society Provision*, 6(1). <https://doi.org/Reconstructing Administrative Remedies from the Perspective of Administrative Justice Principles and Legal Certainty>
- Wiranti. (2023). Juridical Analysis: Online Single Submission (OSS) System for Dynamic Risk-Based Business Licensing. *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 10(1). <https://doi.org/https://doi.org/10.24252/jurisprudentie.v10i1.38561>