

From the Annulment of Administrative Decisions to the Restoration of Plaintiffs' Rights in Indonesian Administrative Court Judgments

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Abstract

The annulment of an unlawful administrative decision does not always restore the rights of a successful plaintiff. In Indonesian administrative justice, the consequences of an administrative decision may continue even after the decision has been declared invalid, creating a gap between formal judicial victory and substantive legal protection. This study examines how judgments of the State Administrative Court can move beyond annulment toward the effective restoration of plaintiffs' rights. The research employs qualitative legal research combining doctrinal analysis, systematic case-law analysis, and a comparative functional approach. Primary legal materials include legislation, judicial decisions, Supreme Court regulations and guidelines, and official judicial reports up to 2024, while secondary materials consist of relevant scholarly literature on administrative remedies and effective judicial protection. The study finds that the effectiveness of administrative court judgments depends on three interconnected dimensions: remedial adequacy, remedial enforceability, and effective restoration. Annulment alone may be insufficient where the unlawful administrative act has already produced legal, economic, professional, or other factual consequences. The study also

distinguishes between execution failure, which occurs when an adequate judgment is not implemented, and remedial failure, which arises when the judgment itself does not provide sufficient relief. The main contribution of this study is the development of a rights-restoration framework that shifts Indonesian administrative procedural law from an annulment-centred approach toward a model of effective judicial protection.

Keywords

administrative justice; State Administrative Court; judicial remedies; rights restoration; effective judicial protection.

Introduction

Administrative justice is expected not merely to determine whether governmental decisions are lawful but also to provide effective protection for individuals whose rights or legitimate interests have been adversely affected by public authorities. Judicial review therefore performs a dual function: controlling the legality of administrative action and protecting citizens against unlawful exercises of governmental power. A favourable judicial decision, however, does not automatically constitute effective legal protection. Judicial protection becomes meaningful only when the successful plaintiff obtains a remedy capable of addressing the actual consequences of the unlawful administrative act and restoring, as far as legally and practically possible, the position that would have existed had the violation not occurred. This understanding corresponds with the principle of effective judicial protection, which requires judicial remedies to operate practically and effectively rather than merely formally or declaratorily.¹

The Indonesian State Administrative Court was established as an institutional mechanism for controlling governmental authority and protecting citizens against unlawful administrative decisions. Law No. 5 of 1986 on the State Administrative Court, subsequently amended by Law No. 9 of 2004 and Law No. 51 of 2009, provides the procedural basis for challenging administrative decisions and authorises courts to declare disputed decisions null or invalid. The legislation also recognises several consequential forms of relief, including revocation of the disputed decision, issuance of a new administrative decision in certain circumstances, compensation, and rehabilitation. Nevertheless, Indonesian administrative procedural law remains strongly oriented towards annulment as its primary judicial response. Such an orientation

¹ Luis Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition in the European Administrative Space,” *German Law Journal* 22 (2021): 344–370; Iván Hunter Ampuero, “Judicial Protection and Ultra Vires Acts or Actions of the Administration in Chile,” *Ius et Praxis* 27, no. 1 (2021): 229–247.

raises a fundamental question as to whether removing an unlawful administrative decision from the legal order is sufficient when that decision has already produced consequences affecting the plaintiff's legal, economic, professional, social, or environmental position.²

The distinction between determining illegality and restoring rights is particularly important in administrative litigation because disputes generally arise within an asymmetrical relationship between citizens and public authorities. Administrative bodies possess institutional resources, public authority, documentary control, and the capacity to generate legal consequences before judicial review is completed. A citizen who challenges an administrative decision may therefore suffer significant losses long before a final judgment is delivered. An unlawfully dismissed public official may lose income, professional status, and career opportunities; the revocation of a business licence may interrupt economic activity; an unlawful land decision may alter possession or control over property; while an environmental permit may produce physical consequences that are difficult to reverse. Under these circumstances, annulment of the underlying decision does not necessarily eliminate the consequences already created by governmental action.³

This problem demonstrates that the effectiveness of administrative adjudication should not be assessed solely by examining whether the challenged administrative decision has been declared unlawful. The form of relief granted by the court is equally important because it determines whether judicial review is capable of correcting the effects of the administrative illegality. Comparative administrative-law scholarship has increasingly treated remedies as an autonomous element of judicial review rather than as a secondary consequence of a finding of unlawfulness. The central issue is therefore no longer limited to whether public authorities have acted lawfully but extends to what courts should be able to order after unlawfulness has been established.⁴

² Republic of Indonesia, Law No. 5 of 1986 on the State Administrative Court, as amended by Law No. 9 of 2004 and Law No. 51 of 2009; Paul Daly, *Understanding Administrative Law in the Common Law World* (Oxford: Oxford University Press, 2021), 145–173.

³ Paul Daly, *Understanding Administrative Law in the Common Law World* (Oxford: Oxford University Press, 2021), 145–173; Erdiansyah Syam et al., “Execution of State Administrative Judicial Decisions as a Mirror of Court Authority,” *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2571.

⁴ Daly, *Understanding Administrative Law in the Common Law World*, 145–173; Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition,” 344–370.

The Rembang cement dispute illustrates the limitations of treating annulment as the endpoint of administrative justice. In Supreme Court Decision No. 99 PK/TUN/2016, the Court granted the petition submitted by members of the Kendeng community and annulled the environmental permit relating to the cement project. The judgment became an important reference in Indonesian environmental administrative litigation because it recognised objections raised by citizens concerning the legality of the environmental permit after different outcomes at earlier judicial levels. Nevertheless, the administrative dispute did not simply end following the annulment, as a new environmental permit was subsequently issued after revisions to the environmental assessment process. The case demonstrates that a successful challenge to an administrative decision does not necessarily result in the substantive restoration of the interests that motivated the plaintiffs to initiate litigation.⁵

Similar difficulties arise outside environmental disputes. Empirical research on the implementation of administrative court judgments has identified cases in which successful plaintiffs continued to encounter obstacles in obtaining the practical consequences of final and binding decisions. Among the examples discussed in the literature are disputes involving a former Regional Secretary of Pamekasan whose position was not effectively restored despite succeeding in administrative litigation and village officials in Kediri who experienced difficulties obtaining reinstatement after favourable judgments. These experiences reveal an important distinction between formal judicial recognition and effective restoration. A plaintiff may succeed in establishing that a governmental decision was unlawful but still fail to recover the position, status, benefit, or right that was lost as a consequence of that decision.⁶

Indonesian judicial practice nevertheless also demonstrates the possibility of developing a more substantive conception of administrative remedies. Supreme Court Decision No. 184 K/TUN/TF/2023, involving Rahmawati Salam and the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, was subsequently identified by the Supreme Court as a landmark decision. In determining compensation concerning former owners of *particuliere landerijen* or their heirs, the Court did not confine

⁵ Hadi Dwi Utomo et al., "Comparison of Legal Reasoning Models in Decision No. 064/G/2014/PTUN.SMG, No. 135/B/2015/PT.TUN.SBY and No. 99 PK/TUN/2016," *Jurnal Jurisprudence* 13, no. 1 (2023): 59–78

⁶ Budi Kurniawan et al., "Degradation of Government Officials' Compliance in Implementing Administrative Courts Decisions," *International Journal of Research and Innovation in Social Science* (2024): 2387–2394.

the remedy to the nominal amount traditionally associated with Government Regulation No. 43 of 1991. Instead, the calculation took account of the contemporary value of gold and additional annual interest. The significance of this judgment lies in the Court's willingness to connect judicial relief with the actual economic value of the claimant's loss, suggesting that administrative remedies may evolve beyond formal annulment toward more effective forms of restoration.⁷

The urgency of this issue is reinforced by official data concerning the implementation of administrative court judgments. The Supreme Court's 2024 Annual Report recorded 273 administrative judgments within the execution workload, comprising 109 cases carried over from previous periods and 164 new applications for execution. Of these cases, 128 executions were completed while 145 remained unresolved, resulting in an execution completion rate of approximately 46.89 per cent. These figures indicate that the capacity of administrative courts to adjudicate disputes has not always been matched by an equivalent capacity to ensure that successful plaintiffs obtain the practical consequences of their judgments. The gap between judicial victory and actual restoration therefore constitutes an empirical, rather than merely theoretical, problem of Indonesian administrative procedural law.⁸

The problem is also structural rather than temporary. Judicial information published in 2024 recorded only 69 completed executions in 2022, representing approximately 36 per cent of applications for execution and voluntary implementation, while 99 executions were completed in 2023, representing approximately 34 per cent. The persistence of these relatively low implementation rates indicates continuing difficulties in translating final judgments into effective administrative action. The Supreme Court responded to this institutional problem by issuing Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024 concerning supervision of the implementation of final and binding administrative court judgments. The issuance of a specific supervisory guideline after more than three decades of administrative-court practice itself indicates that judgment implementation continues to constitute a significant procedural challenge.⁹

⁷ Supreme Court of the Republic of Indonesia, *Annual Report of the Supreme Court of the Republic of Indonesia 2024* (Jakarta: Supreme Court of the Republic of Indonesia, 2024); Republic of Indonesia, Government Regulation No. 43 of 1991 concerning Compensation and Its Implementation at the State Administrative Court.

⁸ Supreme Court of the Republic of Indonesia, *Annual Report 2024*.

⁹ Supreme Court of the Republic of Indonesia, Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024 concerning Supervision of the

The urgency of examining judicial remedies becomes even greater as the jurisdiction and caseload of administrative courts develop. The Supreme Court's 2024 judicial statistics recorded 1,838 first-instance administrative judgments, of which 1,213 were appealed. This represents an appeal ratio of approximately 66 per cent and demonstrates the substantial level of contestation surrounding disputes between citizens and administrative authorities. Increasing access to administrative courts is undoubtedly important, but access alone does not guarantee meaningful administrative justice. Expansion of judicial review without a corresponding strengthening of remedial effectiveness risks producing a system in which citizens are increasingly able to challenge governmental decisions but remain uncertain whether a successful judgment will restore the rights that prompted litigation in the first place.¹⁰

This issue carries broader constitutional significance because administrative courts form part of the institutional structure through which governmental power is subjected to law. Judicial control loses much of its practical value when an unlawful administrative decision can be annulled while its material consequences remain substantially uncorrected. Under such circumstances, plaintiffs may obtain formal acknowledgment that the government has acted unlawfully without recovering the legal position, employment status, licence, economic benefit, compensation, rehabilitation, or other interest that was impaired. The effectiveness of administrative justice therefore depends on the connection between three procedural stages: the determination of illegality, the formulation of an appropriate judicial remedy, and the effective implementation of that remedy.¹¹

Existing Indonesian scholarship has extensively examined weaknesses in the execution of administrative court judgments. Studies published up to 2024 have discussed the non-compliance of administrative officials, the weakness of coercive mechanisms, the application of *dwangsom*, administrative sanctions, dependence on officials' willingness to implement judgments, and proposals to strengthen institutional enforcement mechanisms. These studies have significantly contributed to understanding the execution problem, but

Implementation of Final and Binding State Administrative Court Judgments, 2 July 2024; Supreme Court of the Republic of Indonesia, *Annual Report 2024*.
Supreme Court of the Republic of Indonesia, *Annual Report 2024*.

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¹¹ Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition," 344–370; Vindy Septia Putri, Ahmad Ahmad, and Mohamad Hidayat Muhtar, "Protection of Human Rights in the Execution of Forced Attempts against State Administrative Court Decisions," *Jurnal Konstitusi* 21, no. 3 (2024): 392–412.

their analytical focus has generally been placed on what happens after a final judgment has been rendered, particularly whether administrative officials comply with judicial decisions.¹²

Another body of scholarship has concentrated on the legality of administrative decisions, judicial reasoning, administrative discretion, jurisdictional boundaries, and the expansion of objects subject to administrative judicial review. Research concerning environmental disputes such as the Rembang cement case, for example, has primarily examined differences in judicial reasoning and the legality of environmental permits. Such studies are important in determining when governmental conduct should be declared unlawful, but they provide comparatively limited discussion of what form of relief should follow once illegality has been established. The content of the operative part of the judgment and its capacity to repair the plaintiff's legal and factual position have therefore received less systematic attention.¹³

A significant research gap consequently exists between these two dominant strands of scholarship. The first concentrates on the legality of the disputed administrative act, while the second focuses on whether final judgments are implemented by government officials. Between these stages lies a relatively underexplored procedural problem concerning the adequacy of the judicial remedy itself. A judgment may be perfectly enforceable in procedural terms yet remain inadequate to restore the plaintiff's rights because the relief ordered does not correspond to the consequences of the administrative illegality. Conversely, a judgment may contain an appropriate restorative order but remain ineffective because its operative provisions are insufficiently clear or difficult to enforce. The problem of administrative justice must

¹² Erdiansyah Syam et al., "Execution of State Administrative Judicial Decisions as a Mirror of Court Authority," *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2571; Vindy Septia Putri, Ahmad Ahmad, and Mohamad Hidayat Muhtar, "Protection of Human Rights in the Execution of Forced Attempts against State Administrative Court Decisions," *Jurnal Konstitusi* 21, no. 3 (2024): 392–412; Rizka Amalia et al., "Problematika Kepatuhan Pejabat Tata Usaha Negara dalam Eksekusi Putusan Pengadilan Tata Usaha Negara," *Perspektif Hukum* 24, no. 2 (2024): 195–215; Samuel D. Baranyanan, Nanda Firmandayu, and Rendra Danendra, "The Compliance of Regional Autonomy with State Administrative Court Decisions," *Journal of Sustainable Development and Regulatory Issues* 2, no. 1 (2024): 35–52; Kurniawan et al., "Degradation of Government Officials' Compliance."

¹³ Utomo et al., "Comparison of Legal Reasoning Models," 59–78

therefore be examined not only through the dichotomy of legality and execution but also through the design and quality of judicial remedies.¹⁴

This study departs from previous research by shifting the focus from an annulment-centred understanding of administrative adjudication towards a rights-restoration approach. Its novelty does not merely consist of proposing stronger sanctions against officials who refuse to comply with final judgments, since non-compliance has already received considerable attention in Indonesian scholarship. Instead, this study places the remedial content of administrative judgments at the centre of procedural analysis. It examines whether the remedy ordered by the judge corresponds to the nature of the violation, whether it addresses the actual consequences suffered by the plaintiff, whether the operative part of the judgment is sufficiently clear and enforceable, and whether its implementation is capable of restoring the plaintiff's legal and factual position. The analytical question therefore shifts from whether the plaintiff formally wins the case to whether the plaintiff actually recovers the right for which judicial protection was sought.¹⁵

The original contribution of this study lies in developing a rights-restoration framework for Indonesian administrative procedural law through three interconnected dimensions: remedial adequacy, remedial enforceability, and effective restoration. Remedial adequacy examines whether the relief granted corresponds to the nature and consequences of the unlawful administrative act. Remedial enforceability assesses whether the operative provisions establish obligations that are sufficiently clear, measurable, and capable of judicial supervision. Effective restoration examines whether implementation ultimately returns the successful plaintiff, as closely as legally possible, to the position that would have existed had the unlawful administrative act not occurred. By integrating legality review, remedial design, and implementation within a single analytical framework, this study seeks to reposition Indonesian administrative justice from a system primarily oriented towards cancelling unlawful administrative decisions into one

¹⁴ Daly, *Understanding Administrative Law in the Common Law World*, 145–173; Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition,” 344–370; Hunter Ampuero, “Judicial Protection and Ultra Vires Acts,” 229–247.

¹⁵ Daly, *Understanding Administrative Law in the Common Law World*, 145–173; Yulius Yulius and Yos Johan Utama, “Optimizing the Role of State Administrative Court Decisions in State Financial Recovery,” *Law Reform* 20, no. 1 (2024): 34–53.

that places effective restoration of citizens' rights at the centre of administrative procedural law.¹⁶

Method

This study employs a qualitative legal research design combining doctrinal legal analysis with systematic case-law analysis. The doctrinal approach is used to examine the normative structure of Indonesian administrative procedural law governing the forms of relief available to plaintiffs, the formulation of operative judgments, and the execution of final administrative court decisions. At the same time, case-law analysis is employed to identify how these procedural rules are interpreted and applied by administrative judges in concrete disputes. This combination is necessary because the issue of rights restoration cannot be adequately understood solely from statutory provisions; it must also be examined through the manner in which courts formulate remedies and the extent to which those remedies are capable of restoring the legal position of successful plaintiffs.¹⁷

The primary legal materials consist of Law No. 5 of 1986 on the State Administrative Court, as amended by Law No. 9 of 2004 and Law No. 51 of 2009, relevant provisions of Law No. 30 of 2014 on Government Administration, implementing regulations, Supreme Court regulations and circulars, as well as judicial guidelines relating to the execution of administrative judgments. Particular attention is given to Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024 concerning supervision of the implementation of final and binding administrative court judgments. The study also examines selected decisions of State Administrative Courts, Administrative High Courts, and the Supreme Court issued up to 2024. Secondary materials consist of books, peer-reviewed journal articles, and scholarly works on administrative justice, effective judicial protection, judicial remedies, judgment enforcement, and rights restoration.¹⁸

¹⁶ Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition," 344–370; Daly, *Understanding Administrative Law in the Common Law World*, 145–173; Supreme Court of the Republic of Indonesia, *Annual Report 2024*.

¹⁷ Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–119; Peter Cane and Herbert M. Kritzer, eds., *The Oxford Handbook of Empirical Legal Research* (Oxford: Oxford University Press, 2010).

¹⁸ Republic of Indonesia, Law No. 5 of 1986 on the State Administrative Court, as amended by Law No. 9 of 2004 and Law No. 51 of 2009; Republic of Indonesia, Law No. 30 of 2014 on Government Administration; Supreme Court of the Republic of Indonesia, Implementation Guideline No.

Judicial decisions are selected through purposive sampling based on their relevance to the central research problem. The cases included in the analysis must satisfy at least one of the following criteria: the plaintiff obtained a favourable judgment involving annulment of an administrative decision; the judgment imposed an obligation on a government authority to revoke, issue, restore, rehabilitate, compensate, or otherwise correct an administrative consequence; the dispute raised difficulties in the implementation of the judgment; or the decision demonstrated a judicial attempt to formulate a remedy beyond mere annulment. The sample includes disputes concerning public employment, land administration, environmental licensing, administrative compensation, and other administrative matters in which the distinction between formal annulment and substantive restoration can be clearly observed.¹⁹

The analysis of judicial decisions is conducted using a structured case-coding framework. Each judgment is examined according to several variables, including the type of disputed administrative act, the nature of the plaintiff's injury, the form of relief requested, the form of relief granted, the wording of the operative part of the judgment, obligations imposed on the administrative authority, the availability of compensation or rehabilitation, the clarity of the remedial order, and the available information concerning implementation. These variables are then classified according to three analytical dimensions developed in this study, namely remedial adequacy, remedial enforceability, and effective restoration. Remedial adequacy refers to whether the relief corresponds to the nature and consequences of the unlawful administrative act; remedial enforceability examines whether the judgment contains obligations that are sufficiently clear and capable of implementation; and effective restoration concerns whether the remedy is capable of returning the plaintiff, as closely as legally possible, to the position that would have existed in the absence of the unlawful administrative act.²⁰

01/KM.TUN/HK2.7/Juklak/VII/2024 concerning Supervision of the Implementation of Final and Binding State Administrative Court Judgments.

¹⁹ Hadi Dwi Utomo et al., "Comparison of Legal Reasoning Models in Decision No. 064/G/2014/PTUN.SMG, No. 135/B/2015/PT.TUN.SBY and No. 99 PK/TUN/2016," *Jurnal Jurisprudence* 13, no. 1 (2023): 59–78; Budi Kurniawan et al., "Degradation of Government Officials' Compliance in Implementing Administrative Courts Decisions," *International Journal of Research and Innovation in Social Science* (2024): 2387–2394.

²⁰ Paul Daly, *Understanding Administrative Law in the Common Law World* (Oxford: Oxford University Press, 2021), 145–173; Luis Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition in the European Administrative Space," *German Law Journal* 22 (2021): 344–370.

The study does not treat execution merely as a separate post-judgment problem. Instead, it analyses the relationship between the content of the judgment and its subsequent implementation. This approach makes it possible to distinguish at least three different situations: judgments that annul an unlawful decision but provide limited restorative consequences; judgments that formulate restorative obligations but encounter implementation difficulties; and judgments in which the design of the remedy itself facilitates effective restoration. Such a distinction is important because non-compliance may result not only from administrative resistance but also from operative judgments that are too general, unclear, or insufficiently responsive to the actual consequences suffered by the plaintiff.²¹

The study also employs a comparative functional approach to strengthen the theoretical analysis. Comparative materials are used selectively to examine how other administrative justice systems conceptualise effective judicial protection, remedial discretion, mandatory orders, compensation, reinstatement, and other forms of corrective relief. The comparison is not intended to transplant foreign procedural rules directly into Indonesian law. Rather, it is used to identify functional principles that may assist in evaluating whether the existing Indonesian remedial framework provides effective protection to successful plaintiffs. The comparative analysis therefore focuses on the function performed by a particular remedy rather than on formal institutional similarities between legal systems.²²

The collected materials are analysed qualitatively through interpretation, classification, comparison, and legal argumentation. Statutory provisions are interpreted systematically in relation to the objectives of administrative justice, while judicial decisions are examined to identify patterns in judicial reasoning and remedial design. Findings from the case-law analysis are then compared with the principle of effective judicial protection and the three-dimensional framework of remedial adequacy, remedial enforceability, and effective restoration. This analytical process is intended to determine whether Indonesian administrative procedural law remains predominantly

²¹ Erdiansyah Syam et al., “Execution of State Administrative Judicial Decisions as a Mirror of Court Authority,” *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2571; Vindy Septia Putri, Ahmad Ahmad, and Mohamad Hidayat Muhtar, “Protection of Human Rights in the Execution of Forced Attempts against State Administrative Court Decisions,” *Jurnal Konstitusi* 21, no. 3 (2024): 392–412.

²² Geoffrey Samuel, *An Introduction to Comparative Law Theory and Method* (Oxford: Hart Publishing, 2014); Paul Daly, *Understanding Administrative Law in the Common Law World* (Oxford: Oxford University Press, 2021).

annulment-oriented or has developed toward a model capable of providing substantive restoration of plaintiffs' rights.²³

The reliability of the analysis is strengthened through source triangulation. Statutory provisions, judicial decisions, official Supreme Court reports, execution-monitoring data, and academic literature are cross-examined to avoid relying on a single type of legal material. Official judicial statistics are used to contextualise patterns identified in individual cases, while academic literature is employed to assess whether those patterns correspond with broader theoretical debates on administrative remedies and effective judicial protection. Through this method, the study seeks to produce an analysis that is doctrinally grounded, empirically informed, and capable of explaining both the normative design and practical operation of rights restoration within Indonesian administrative justice.²⁴

Result And Discussion

The analysis in this study is primarily grounded in the theory of effective judicial protection and the remedial approach to administrative law. Effective judicial protection is used to assess whether judicial intervention provides protection that is practical and capable of producing meaningful consequences for the successful plaintiff rather than merely recognising that an administrative act was unlawful. Arroyo Jiménez explains that effective judicial protection requires attention to procedural arrangements and the actual effectiveness of judicial control. The remedial approach developed by Daly complements this perspective by distinguishing the determination of unlawfulness from the subsequent judicial decision concerning the remedy to be granted. In Daly's account, remedies are not automatic consequences of illegality; their form and scope reflect a judicial choice shaped by the competing values of individual self-realisation, good administration, electoral legitimacy, and decisional autonomy. These two theoretical perspectives are operationalised in this study through three analytical

²³ Hutchinson and Duncan, "Defining and Describing What We Do," 83–119; Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition," 344–370.

²⁴ Supreme Court of the Republic of Indonesia, *Annual Report of the Supreme Court of the Republic of Indonesia 2024* (Jakarta: Supreme Court of the Republic of Indonesia, 2024); Cane and Kritzer, *The Oxford Handbook of Empirical Legal Research*.

dimensions consisting of remedial adequacy, remedial enforceability, and effective restoration.²⁵

1. The Limits of Annulment in Restoring the Rights of Successful Plaintiffs

The procedural structure of Indonesian administrative adjudication reveals a strong historical orientation towards annulment. Article 97 of Law No. 5 of 1986 provides that when a claim is granted, the court may impose an obligation on the administrative body or official concerned. Such obligations may take the form of revoking the disputed administrative decision, revoking it and issuing a new decision, or issuing a decision where the dispute concerns an administrative omission. The judgment may also be accompanied by compensation and, particularly in public employment disputes, rehabilitation. The legislation therefore does not formally restrict administrative courts to annulment alone. Nevertheless, annulment remains the structural starting point from which other consequences are derived.²⁶

Viewed through the theory of effective judicial protection, this statutory construction presents a distinction between formal correction and substantive protection. Annulment corrects the legal order by removing an unlawful administrative decision. It answers the question of whether the exercise of governmental power was lawful, but it does not necessarily answer the further question of what must be done to remove the consequences of that unlawfulness. Effective judicial protection requires the second question to receive independent consideration because an administrative decision may cease to have legal force while its consequences continue to affect the plaintiff. The measure of judicial protection should therefore not be confined to the

²⁵ Luis Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition in the European Administrative Space,” *German Law Journal* 22, no. 3 (2021): 344–370; Paul Daly, *Understanding Administrative Law in the Common Law World* (Oxford: Oxford University Press, 2021), 1–31, 145–173.

²⁶ Republic of Indonesia, Law No. 5 of 1986 on the State Administrative Court, Article 97, as amended by Law No. 9 of 2004 and Law No. 51 of 2009.

disappearance of the unlawful decision but must extend to the extent to which the plaintiff's impaired legal position is repaired.²⁷

Daly's remedial approach provides a useful basis for explaining this distinction. Once a court identifies an unlawful administrative act, the legal inquiry does not necessarily end. A separate remedial question arises concerning the type of order that is appropriate to the established violation. A remedy that respects administrative decisional autonomy may leave considerable discretion to the administrative authority, while a remedy emphasising individual self-realisation may require a more specific order to ensure that the successful plaintiff receives meaningful relief. The tension between these values is particularly relevant to Indonesian administrative adjudication because the court must protect individuals against unlawful governmental power without transforming itself into the administrative decision-maker.²⁸

This tension can be observed through the first analytical dimension proposed in this study, remedial adequacy. Remedial adequacy requires correspondence between the nature of the administrative illegality, its consequences for the plaintiff, and the relief ordered by the court. Where the violation consists merely of the continuing legal existence of an unlawful decision, annulment may be adequate. The situation differs where the disputed decision has already caused dismissal from public office, loss of economic entitlement, deprivation of property-related interests, environmental alteration, or another factual consequence that cannot be corrected merely by removing the underlying decision. In such situations, annulment is necessary but not necessarily sufficient. The remedy must address not only

²⁷ Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition," 344–370; Daly, *Understanding Administrative Law in the Common Law World*, 145–173

²⁸ Daly, *Understanding Administrative Law in the Common Law World*, 1–31, 145–173.

the legal source of the violation but also the consequences created by that source.²⁹

The Rembang cement litigation provides a useful illustration of this limitation. Supreme Court Decision No. 99 PK/TUN/2016 annulled the environmental permit challenged by residents and required the Governor of Central Java to revoke the permit. From the perspective of legality review, the judgment provided a clear judicial victory. Yet subsequent administrative action resulted in the issuance of another environmental permit, demonstrating that annulment of the original decision did not by itself bring the substantive conflict to an end. The importance of this case for procedural analysis lies not in reopening the environmental legality debate but in demonstrating the difference between invalidating an administrative instrument and producing a durable remedial outcome.³⁰

The Rembang case also demonstrates why effective judicial protection cannot always be understood as equivalent to successful judicial review. If the judgment removes one administrative decision but allows substantially similar consequences to reappear through a new administrative process, the successful plaintiff may receive formal legal vindication without obtaining the substantive protection sought through litigation. This does not necessarily mean that a court should prohibit an administrative authority from exercising its lawful competence in the future. Such an approach could improperly interfere with decisional autonomy. Rather, remedial theory requires the court to clarify the legal consequences of its finding sufficiently to prevent the unlawful elements identified in the

²⁹ Republic of Indonesia, Law No. 5 of 1986, Articles 97, 120 and 121; Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

³⁰ Supreme Court of the Republic of Indonesia, Decision No. 99 PK/TUN/2016; Hadi Dwi Utomo et al., “Comparison of Legal Reasoning Models in Decision No. 064/G/2014/PTUN.SMG, No. 135/B/2015/PT.TUN.SBY and No. 99 PK/TUN/2016,” *Jurnal Jurisprudence* 13, no. 1 (2023): 59–78.

judgment from simply being reproduced in a subsequent administrative decision.³¹

A different trajectory can be seen in Supreme Court Decision No. 184 K/TUN/TF/2023 *jo.* Decision No. 171/B/TF/2022/PT.TUN.JKT. The dispute concerned governmental omission in providing compensation associated with former *particuliere landerijen*. The Supreme Court's 2024 Annual Report identified the case as a landmark decision and formulated the legal principle that compensation should be adjusted by reference to the contemporary value of gold and supplemented by six per cent annual interest. Instead of treating the historical nominal amount as a sufficient response, the judicial reasoning connected the remedy to contemporary economic value.³²

This decision is particularly significant when analysed through remedial adequacy. A nominal payment calculated according to an obsolete historical value could formally comply with an obligation to compensate but fail to repair the actual economic loss experienced by the claimant. By connecting compensation to the contemporary value of gold, the judicial approach moved closer to the principle that the content of the remedy must correspond to the real effect of the violation. The decision therefore provides an important example of how Indonesian administrative adjudication can move beyond a purely annulment-oriented conception of relief without eliminating legitimate administrative authority. It illustrates a remedial approach in which judicial protection is measured by the quality of the remedy rather than solely by the declaration of unlawfulness.³³

³¹ Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

³² Supreme Court of the Republic of Indonesia, Decision No. 184 K/TUN/TF/2023 *jo.* Decision No. 171/B/TF/2022/PT.TUN.JKT; Supreme Court of the Republic of Indonesia, *Annual Report 2024* (Jakarta: Supreme Court of the Republic of Indonesia, 2024).

³³ Supreme Court of the Republic of Indonesia, *Annual Report 2024*; Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

The first finding of this study is therefore that annulment should be understood as one remedial technique rather than as the ultimate objective of administrative justice. Effective judicial protection requires the judge to determine whether annulment itself is adequate or whether additional corrective consequences are necessary. This does not imply unlimited judicial power to substitute administrative decisions. Instead, the scope of judicial intervention should depend on the character of the illegality, the consequences suffered by the plaintiff, and the degree of administrative discretion that legitimately remains after the judgment. The theoretical balance lies between protecting individual self-realisation and respecting administrative decisional autonomy.³⁴

2. The Remedial Design of Administrative Court Judgments and the Problem of Enforceability

The second problem concerns not merely what remedy is granted but how that remedy is formulated in the operative part of the judgment. A favourable judgment may recognise a plaintiff's entitlement to restoration but still be difficult to implement when the obligation imposed on the administrative authority is vague, dependent upon further discretionary decisions, or insufficiently connected to the factual position that must be corrected. This dimension is examined through the concept of remedial enforceability, which focuses on whether a judicial remedy is sufficiently clear, specific, measurable, and institutionally capable of implementation.³⁵

Indonesian administrative procedural law already distinguishes between different forms of execution according to the content of the operative judgment. Under Article 116 of the State Administrative Court Law, where the obligation consists only of revoking the disputed administrative decision, the decision loses legal force after the statutory period if the defendant does not fulfil the required obligation. A different

³⁴ Daly, *Understanding Administrative Law in the Common Law World*, 1–31, 145–173; Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition,” 344–370.

³⁵ Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

procedure applies where the defendant is required to revoke a decision and issue a new one or to issue an administrative decision. If such obligations remain unperformed after ninety working days, the plaintiff may request the chair of the court to order implementation. Continued refusal may lead to coercive measures in the form of forced payments and/or administrative sanctions, together with further supervisory mechanisms.³⁶

The distinction is procedurally important because it reveals that not all favourable judgments have the same remedial structure. An annulment judgment can operate largely through the elimination of the legal force of the disputed decision, whereas a judgment requiring positive governmental action depends on subsequent administrative performance. The second category presents greater difficulty because restoration cannot occur unless an administrative official takes a new legal or factual step. From Daly's remedial perspective, this is where the relationship between judicial authority and administrative decisional autonomy becomes most difficult. A court must define the obligation sufficiently to protect the successful plaintiff while avoiding unnecessary substitution of administrative functions.³⁷

The difficulty suggests that the traditional debate over State Administrative Court execution has focused too heavily on coercion after non-compliance and insufficiently on the design of the judgment before non-compliance occurs. The problem is usually framed as whether officials obey final and binding judgments, whether *dwangsom* can operate effectively, or whether stronger administrative sanctions are required. Those issues are significant, and Indonesian studies published in 2024 continue to identify non-compliance and fragmented execution mechanisms as persistent problems. Yet an enforcement-centred analysis may overlook a prior question: whether the operative judgment

³⁶ Republic of Indonesia, Law No. 51 of 2009 concerning the Second Amendment to Law No. 5 of 1986 on the State Administrative Court, Article 116.

³⁷ Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

defines with sufficient precision what compliance actually requires.³⁸

For example, an order requiring an administrative authority simply to “rehabilitate” a successful plaintiff may carry a different practical meaning depending on the dispute. In a public employment case, effective rehabilitation may require restoration of status, position, rank, salary consequences, career records, or other administrative consequences. A judgment may therefore be formally executable while remaining substantively incomplete if the operative provision fails to clarify which consequences must be corrected. Articles 97 and 121 recognise rehabilitation within administrative adjudication, but effective judicial protection requires courts to consider the relationship between the wording of the remedy and the concrete administrative steps necessary to produce restoration.³⁹

The same analysis applies to compensation. A judicial order that recognises entitlement but leaves essential aspects of its implementation uncertain may create a second dispute after the first dispute has formally ended. Decision No. 184 K/TUN/TF/2023 is relevant because the judicial reasoning reduced such uncertainty by linking compensation to an identifiable method of valuation. This approach makes the remedy not only more substantively adequate but also more operationally determinate. The case therefore illustrates the intersection between remedial adequacy and remedial

³⁸ Elvi Susanti Syam et al., “Execution of State Administrative Judicial Decisions a Mirror of the Authority Court,” *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2571; Soeleman Djaiz Baranyanan, Nilam Firmandayu and Ravi Danendra, “The Compliance of Regional Autonomy with State Administrative Court Decisions,” *Journal of Sustainable Development and Regulatory Issues* 2, no. 1 (2024): 35–52; Viorizza Suciani Putri, Ahmad Ahmad and Mohamad Hidayat Muhtar, “Protection of Human Rights in the Execution of Forced Attempts against State Administrative Court Decisions,” *Jurnal Konstitusi* 21, no. 3 (2024): 392–412

³⁹ Supreme Court of the Republic of Indonesia, Decision No. 184 K/TUN/TF/2023; Supreme Court of the Republic of Indonesia, *Annual Report 2024*.

enforceability: the amount must correspond to the injury, but the method must also be sufficiently clear to be implemented.⁴⁰

The issuance of Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024 provides further institutional evidence of this procedural problem. The guideline expressly states that no uniform execution guideline had previously regulated the handling of applications and supervision of execution within the administrative courts and that this absence had prevented execution from operating effectively, efficiently, and comprehensively. It introduced a structured framework for execution supervision, including procedures and standard forms relating to automatic execution, coercive measures, compensation, rehabilitation, and other stages of implementation.⁴¹

The 2024 Guideline constitutes an important procedural development because it strengthens the court's supervisory capacity after a judgment becomes final. However, viewed through the theory of effective judicial protection, procedural standardisation at the execution stage solves only part of the problem. Supervision can ensure that the defendant is pressed to carry out the operative judgment, but it cannot transform an inadequate remedy into an adequate one. If the operative judgment does not sufficiently address the plaintiff's actual injury, perfect execution of that judgment may still produce incomplete restoration. The effectiveness of administrative justice therefore depends on both the quality of the remedy formulated by the

⁴⁰ Supreme Court of the Republic of Indonesia, Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024 concerning Supervision of the Implementation of Final and Binding State Administrative Court Judgments, 2 July 2024.

⁴¹ Supreme Court of the Republic of Indonesia, Implementation Guideline No. 01/KM.TUN/HK2.7/Juklak/VII/2024; Arroyo Jiménez, "Effective Judicial Protection and Mutual Recognition," 344–370.

adjudicating panel and the quality of execution supervision after the judgment becomes final.⁴²

This distinction refines the conventional understanding of non-execution in administrative justice. Failure to restore rights can originate from at least two different sources. The first is execution failure, where an adequate and clear judgment is not implemented by the defendant. The second is remedial failure, where the judgment itself does not provide relief capable of fully responding to the established violation. The two problems require different solutions. Execution failure calls for stronger supervision, coercive measures, institutional accountability, and administrative compliance. Remedial failure requires judges to improve the formulation and scope of the relief contained in the judgment. Treating both problems merely as “weak execution” risks obscuring their different procedural origins.⁴³

Accordingly, the second finding of this study is that the enforceability of State Administrative Court judgments begins at the moment the remedy is designed, not only when execution is requested. An effective operative judgment should identify the legal consequence to be removed, the positive action required from the administrative authority where necessary, the right or position to be restored, and the extent to which administrative discretion remains available. Such specificity need not transform the judge into an administrator. Instead, it creates a legally intelligible boundary within which the administrative body can implement the judgment while ensuring that the substance of the judicial protection cannot be diluted through ambiguous implementation.⁴⁴

⁴² Syam et al., “Execution of State Administrative Judicial Decisions”; Putri, Ahmad and Muhtar, “Protection of Human Rights in the Execution of Forced Attempts,” 392–412

⁴³ Daly, *Understanding Administrative Law in the Common Law World*, 145–173; Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition,” 344–370

⁴⁴ Arroyo Jiménez, “Effective Judicial Protection and Mutual Recognition,” 344–370; Daly, *Understanding Administrative Law in the Common Law World*, 145–173.

3. Reconstructing Administrative Court Judgments towards Effective Restoration of Plaintiffs' Rights

The third level of analysis concerns whether judicial protection produces effective restoration. This concept goes beyond the validity of the judgment and the formal completion of execution. Effective restoration asks whether the successful plaintiff actually recovers, as far as legally and factually possible, the right, status, benefit, position, or legitimate interest that was impaired by unlawful administrative action. This is the point at which the theory of effective judicial protection and the remedial approach converge most clearly. A judgment may be legally correct, procedurally enforceable, and formally executed, but judicial protection remains incomplete if the actual position of the plaintiff remains substantially unaffected.

Official judicial statistics provide a strong empirical basis for examining this problem. The Supreme Court's 2024 Annual Report recorded 273 cases within the administrative-court execution workload, consisting of 109 unresolved cases from previous periods and 164 new execution applications. During 2024, 128 executions were completed while 145 remained outstanding, producing an execution performance rate of 46.89 per cent. The data should not be interpreted to mean that only 46.89 per cent of all administrative judgments were obeyed, because the dataset specifically concerns the recorded execution workload. Nevertheless, it demonstrates that a substantial portion of judgments requiring execution supervision remained unresolved at the end of the reporting period.

The figures reveal the weakness of equating finality with effectiveness. A judgment that has acquired permanent legal force has achieved procedural finality, but procedural finality does not necessarily mean that the plaintiff has obtained substantive restoration. From the perspective of effective judicial protection, the relevant endpoint is not merely *res judicata* but the actual delivery of the judicially recognised entitlement. This distinction is particularly important in administrative litigation because execution frequently depends upon further action by the same

administrative structure whose previous conduct was declared unlawful.

Indonesian administrative procedural law has attempted to respond to this difficulty through several mechanisms. Article 116 provides for the automatic loss of legal force in certain circumstances, judicial orders to implement positive obligations, coercive payments, administrative sanctions, publication of non-compliance, and escalation to the President and representative institutions. The 2024 Execution Guideline adds a more structured supervisory procedure. These mechanisms represent important developments because they transform judgment implementation from an exclusively voluntary model toward a system containing institutional forms of pressure and supervision.

Nevertheless, the theory of effective judicial protection requires a distinction between compelling obedience and achieving restoration. An administrative official may eventually perform the literal obligation contained in a judgment while the plaintiff remains materially disadvantaged. Conversely, restoration may sometimes require forms of administrative correction not fully captured by the traditional categories of revocation, issuance of a replacement decision, compensation, or rehabilitation. The decisive question is therefore not simply whether an official has performed an administrative act after judgment but whether that act has corrected the consequences identified by the court.

This study accordingly proposes that the effectiveness of State Administrative Court judgments should be assessed through a sequential three-stage test. The first stage is remedial adequacy, asking whether the relief corresponds to the type of illegality and the harm resulting from it. The second is remedial enforceability, asking whether the operative judgment is sufficiently clear, specific, and institutionally feasible to be implemented. The third is effective restoration, asking whether implementation ultimately produces a substantive correction of the plaintiff's impaired legal position. Failure at any one stage can prevent administrative justice from achieving its protective function.

The three stages can be illustrated through different remedial outcomes. A judgment that merely annuls a dismissal decision but does not address the necessary employment consequences may satisfy legality review while failing the remedial-adequacy test. A judgment requiring reinstatement but expressing the obligation in uncertain terms may provide an adequate conceptual remedy while failing the enforceability test. A clear judgment ordering reinstatement may satisfy both of the first two dimensions but still fail effective restoration if the official refuses to implement it. Conversely, a remedy that is adequate, precisely formulated, and fully implemented represents the strongest form of effective judicial protection.

This model also provides a more balanced understanding of judicial power. Strengthening rights restoration does not require administrative judges to replace public authorities in every decision. Daly's theory cautions against ignoring decisional autonomy and electoral legitimacy, while effective judicial protection cautions against leaving successful litigants with remedies that exist only on paper. The appropriate balance is achieved when the court determines the legal parameters necessary for restoration while leaving genuinely discretionary policy choices to the competent administrative authority. Judicial restraint should protect lawful administrative discretion, but it should not become a justification for incomplete protection after illegality has already been judicially established.

Accordingly, a reconstructed model of Indonesian administrative procedural law should distinguish between annulment-oriented judgments and restoration-oriented judgments. The first primarily remove unlawful administrative decisions from the legal order. The second begin from annulment but continue by identifying the legal consequences that must be corrected in order to provide effective relief. Depending on the nature of the dispute, restoration-oriented relief may involve revocation, issuance of a replacement decision, reinstatement, rehabilitation, compensation reflecting actual loss, restoration of administrative status, or another legally permissible corrective obligation. The appropriate form should be determined according

to the characteristics of the violation rather than through an assumption that one type of remedy is universally sufficient.

The implications of this reconstruction extend to the way judges formulate the operative part of judgments. Where the court finds that an administrative act is unlawful, the reasoning should expressly identify the consequences of the illegality relevant to the plaintiff's legal position. The operative part should then be connected to those findings so that the remedy can be understood as a response to a specific violation rather than as a generic consequence of annulment. Such an approach strengthens the logical relationship between *ratio decidendi* and *dictum*, reduces ambiguity during implementation, and provides a clearer benchmark for the chair of the court when supervising execution.

The proposal does not require abandoning annulment as a defining remedy of administrative adjudication. Annulment remains essential because it removes unlawful exercises of public power and preserves the objective legality of administration. The necessary change is conceptual rather than destructive: annulment should become the beginning of remedial analysis rather than automatically its conclusion. Once illegality has been established, the judge should determine whether cancellation alone is sufficient, whether additional restorative obligations are legally necessary, whether those obligations can be effectively implemented, and whether the resulting remedy can reasonably restore the successful plaintiff's position.

The overall findings therefore indicate that the central weakness of Indonesian administrative judicial protection cannot be reduced to the problem of non-compliance by public officials. Non-compliance is a significant component, as demonstrated by the 2024 execution data and existing scholarship, but it represents only one stage in a broader remedial chain. Effective administrative justice requires continuity between the finding of unlawfulness, the adequacy of the remedy, the enforceability of the operative judgment, and the substantive restoration achieved through implementation. The contribution of this study is to reconnect these stages within a single procedural framework.

Under this approach, the success of administrative justice is no longer measured simply by whether an administrative decision has been annulled or whether a judgment has been formally executed, but by whether judicial intervention ultimately provides an effective restoration of the right for which the plaintiff sought protection.

Conclusion

This study finds that the annulment of an unlawful administrative decision does not always restore the rights of the successful plaintiff. In many cases, the legal, economic, professional, or social consequences of the decision may continue even after the decision has been cancelled. Therefore, annulment should not be regarded as the final objective of administrative justice, but as the starting point for determining whether further restoration is needed.

The study also shows that the effectiveness of **State Administrative Court** judgments depends on the way remedies are formulated. Problems do not only arise from the refusal of public officials to implement judgments, but also from judicial orders that are unclear or insufficiently responsive to the plaintiff's actual loss. For this reason, it is important to distinguish between execution failure and remedial failure.

This study proposes three standards for assessing the effectiveness of administrative court judgments, namely remedial adequacy, remedial enforceability, and effective restoration. A remedy should match the nature of the violation, be clearly formulated and capable of implementation, and ultimately restore the plaintiff's legal position as far as possible.

The main contribution of this study is the shift from an annulment-centred approach to a rights-restoration approach in Indonesian administrative procedural law. **State Administrative Court** judgments should not only declare an administrative decision unlawful, but should also provide a remedy that is clear, enforceable, and capable of restoring the rights of the successful plaintiff. This approach can strengthen the role of the State Administrative Court as an institution that not only controls governmental legality but also provides effective legal protection for citizens.

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