

PRINSIP *DUE PROCESS OF LAW* DALAM KEPUTUSAN PENJATUHAN  
SANKSI DISIPLIN BERAT BERUPA PEMBERHENTIAN DENGAN  
HORMAT TIDAK ATAS PERMINTAAN SENDIRI BAGI PNS

INTISARI

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Penelitian ini bertujuan untuk mengetahui dan mengkaji penerapan prinsip *due process of law* dalam keputusan penjatuhan sanksi disiplin berat berupa Pemberhentian Dengan Hormat Tidak Atas Permintaan Sendiri (PDHTAPS) bagi PNS, dan merumuskan rekomendasi reformulasi peraturan agar prinsip tersebut dapat terintegrasi secara efektif dalam Keputusan penjatuhan sanksi PDHTAPS. Urgensi penelitian ini terletak pada masih adanya kelemahan regulasi yang berpotensi menimbulkan pelanggaran hak-hak dasar PNS, ketidakpastian hukum, serta penyalahgunaan wewenang dalam proses penjatuhan sanksi PDHTAPS.

Metode penelitian yang digunakan adalah penelitian hukum normatif dan empiris. Penelitian normatif digunakan untuk menganalisis asas, norma, dan peraturan hukum konkrit terkait permasalahan yang diteliti. Sedangkan penelitian empiris digunakan untuk mengevaluasi implementasi aturan dalam praktik melalui wawancara dengan pejabat terkait, akademisi, dan anggota Tim Pemeriksa Disiplin. Data penelitian diperoleh melalui studi kepustakaan dan penelitian lapangan, kemudian dianalisis secara deskriptif kualitatif.

Hasil penelitian menunjukkan bahwa penerapan prinsip *due process of law* dalam prosedur penjatuhan sanksi PDHTAPS telah diakomodasi secara normatif dalam PP Nomor 94 Tahun 2021 tentang Disiplin PNS serta Peraturan BKN Nomor 3 Tahun 2020 khususnya unsur *hearing*, *defense*, dan *evidence*. Namun demikian, unsur *counsel* (hak atas pendampingan atau bantuan hukum) dan *fair and impartial court* belum diatur secara memadai, sehingga berpotensi melemahkan perlindungan terhadap hak-hak terperiksa. Selain itu, tidak adanya batas waktu yang tegas bagi Tim Pemeriksa dalam menyampaikan Laporan Hasil Pemeriksaan (LHP) menimbulkan ketidakpastian hukum serta membuka peluang penyalahgunaan wewenang. Berdasarkan temuan tersebut, penelitian ini merekomendasikan dua reformulasi utama, yaitu: (1) memasukkan ketentuan eksplisit mengenai hak pendampingan atau bantuan hukum bagi PNS dalam pemeriksaan pelanggaran disiplin berat; (2) menetapkan batas waktu yang tegas bagi Tim Pemeriksa dalam menyampaikan LHP, dan meningkatkan pengawasan terhadap pejabat yang berwenang menghukum guna mencegah ketidakpastian hukum dan potensi penyalahgunaan kewenangan.

**Kata kunci:** *due process of law*, disiplin PNS, PDHTAPS.

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**THE PRINCIPLE OF DUE PROCESS OF LAW IN THE IMPOSITION OF SEVERE DISCIPLINARY SANCTIONS IN THE FORM OF DISMISSAL WITH RESPECT NOT AT ONE'S OWN REQUEST (PDHTAPS) FOR CIVIL SERVANTS**

**ABSTRACT**

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This research aims to examine the application of the *due process of law* principle in the imposition of severe disciplinary sanctions in the form of Dismissal with Respect Not at One's Own Request (PDHTAPS) for Indonesian civil servants, and to formulate recommendations for reformulating disciplinary regulations to ensure that the principle is effectively integrated into PDHTAPS decisions. The urgency of this research stems from existing regulatory shortcomings that have the potential to violate the fundamental rights of civil servants, create legal uncertainty, and open opportunities for abuse of authority in the disciplinary sanction process.

This study employs both normative and empirical legal research methods. The normative approach is used to analyze legal principles, norms, and concrete regulations relevant to the issues under examination, while the empirical approach evaluates the implementation of these rules in practice through interviews with government officials, academics, and members of the Disciplinary Investigation Team. Data were obtained through literature study and field research, and subsequently analyzed using a qualitative descriptive method.

The findings reveal that the application of the *due process of law* principle in PDHTAPS procedures is normatively accommodated in Government Regulation No. 94 of 2021 on Civil Servant Discipline and in BKN Regulation No. 3 of 2020, particularly regarding the elements of hearing, defense, and evidence. However, the elements of counsel (the right to legal assistance) and a fair and impartial adjudicative process remain insufficiently regulated, thereby weakening procedural safeguards for the investigated civil servant. In addition, the absence of a mandatory deadline for the Disciplinary Investigation Team to submit the Investigation Report (LHP) contributes to legal uncertainty and increases the risk of abuse of authority. Based on these findings, this research recommends two key regulatory reforms: (1) the inclusion of explicit provisions guaranteeing the right to legal assistance for civil servants undergoing disciplinary proceedings for serious violations; and (2) the establishment of a strict deadline for the submission of the Investigation Report to the authorized official in order to ensure legal certainty and prevent potential misuse of authority.

**Keywords:** due process of law, civil servant discipline, PDHTAPS.

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