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Publication Of Unanonimized Decisions On Cases Which Trials Have Been Closed

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ABSTRACT

This study aims to analyze the implications of publishing decisions that are not anonymized in cases where the trial is carried out in private which results in harm to others, both material and immaterial losses. parties involved in a case. Also, legal remedies that can be taken by parties who feel aggrieved by not anonymizing the decisions that have been published in the decision directory, by which the party can file an objection or report to the relevant court. The results of the study found that the parties who felt aggrieved by not anonymizing the decisions that had been published in the decision directory, or can file an objection or report to the court and the complaint/report will be forwarded to the Supreme Court, and the Supreme Court will follow up through the Supervisory Body at the Supreme Court. court based on unlawful acts of Article 1365 BW. The type of research is empirical legal research, data collection techniques are interviews and literature studies which are then analyzed qualitatively and presented descriptively. or can file an objection or report to the court and the complaint/report will be forwarded to the Supreme Court, and the Supreme Court will follow up through the Supervisory Body at the Supreme Court. court based on unlawful acts of Article 1365 BW. The type of research is empirical legal research, data collection techniques are interviews and literature studies which are then analyzed qualitatively and presented descriptively. parties who feel aggrieved by not anonymizing the decision can file a claim for compensation to the court based on an act that violates the law of Article 1365 BW. The type of research is empirical legal research, data collection techniques are interviews and literature studies which are then analyzed qualitatively and presented descriptively. parties who feel aggrieved by not anonymizing the decision can file a claim for compensation to the court based on an act that violates the law of Article 1365 BW. The type of research is empirical legal research, data collection techniques are interviews and literature studies which are then analyzed qualitatively and presented descriptively.

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PRELIMINARY

Information is one of the basic needs of everyone, this is guaranteed in the constitution of the Republic of Indonesia as one of the human rights, which is regulated in Article 28 F of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as UUD NRI

1945). The article stipulates that "everyone has the right to communicate and obtain information to develop his personal and social environment, as well as the right to seek, obtain, possess, store, process, and convey information using all available channels." This is in line with Locke's legal principles, which argues that the ideal society is a society that does not violate basic human rights.[1] The guarantee of the right to obtain information is implemented by the state by establishing a law that regulates the disclosure of public information through Law Number 14 of 2008 concerning Openness of Public Information (hereinafter referred to as UU KIP).

The judge's decision is a legal consequence of an act of a legal subject[2], where the decision is declared by the judge as a state official who is authorized to do so, pronounces it in the trial and aims to end or resolve a case or problem between the parties. Not only what is said is called a decision, but also a statement that is poured in written form and then pronounced by the judge at trial. A draft decision (written) has no power as a decision before being pronounced in court by the judge.[3]

As a public institution in the field of justice, the Supreme Court is required to be committed to implementing information disclosure. In the context of implementing the UU KIP, the Supreme Court as one of the judicial institutions in Indonesia issued a Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 144/KMA/SK/VIII/2007 concerning Information Disclosure in Courts which was ratified on August 28, 2007. was born before the enactment of Law Number 14 of 2008 concerning Openness of Public Information which became the pioneer of information transparency in the national level bureaucracy. Along with the development of information needs in court, four years later the decree was revoked through SK KMA Number 1-144/KMA/SK/I/2011 concerning Guidelines for Information Services in Courts. This decree was made to adjust the provisions in the legislation (UU KIP), as a guide for information services in accordance with the duties, functions and organization of the court. Based on SK KMA Number 1-144/KMA/SK/I/2011 concerning Guidelines for Information Services in Courts, it regulates Information that must be announced periodically by the court, Information that must be available at any time and can be accessed by the public and Information that is excluded. Based on letter C SK KMA Number 1-144/KMA/SK/I/2011 that the Court is obliged to manage and maintain types of information to ensure that the information is available and accessible to the public at all times. The information includes general information, information related to cases and trials, information on supervision and discipline,

In C.2. SK KMA Number 1-144/KMA/SK/I/2011 that Information on Cases and Trials, among others, consists of: 1) All court decisions and decisions, both those that have permanent legal force and those that are not yet final and binding (in the form of photocopies or electronic manuscript, not an official copy); 2) Information in the Case Register Book; 3) Case statistics, including; number and types of cases; 4) Stages of a case in the case handling process; 5) Report on the use of court fees. Based on the provisions above, it is known that court decisions and decisions are one type of information that must be available at all times and accessible to the public which must be announced by every court. In addition, it is also regulated in Article 18 of the UU KIP that court decisions are not a type of information that

[1] Bernard L.Tanya, Yoan N. Simanjuntak, Markus Y. Hage,2013, *Teori Hukum,* Yogyakarta: Genta Publishing, p. 72.

[2] Achmad Ali, 2002, *Menguak Tabir Hukum (Suatu Kajian Filosofis & Sosiologis)*, Jakarta: PT. Toko Buku Agung, p. 29.

[3] Sudikno Mertokusumo, 2006, *Hukum Acara Perdata Indonesia*, Edisi ketujuh, Yogyakarta: Liberty, p. 158.

is excluded from public access. Apart from being the implementation of the UU KIP, one of the targets of the Supreme Court to be achieved is to make court decisions accessible to the wider community, both for learning purposes and as comparison materials or data for internal court circles. This is one of the reasons for the issuance of the Decree of the Chief Justice of the Supreme Court Number 144/KMA/SK/V11/2007 concerning Information Disclosure in Court which was later amended by SK KMA Number 1-144/KMA/SK/I/2011. both for learning purposes and as comparison material or data for internal court circles. This is one of the reasons for the issuance of the Decree of the Chief Justice of the Supreme Court Number 144/KMA/SK/V11/2007 concerning Information Disclosure in Court which was later amended by SK KMA Number 1-144/KMA/SK/I/2011. both for learning purposes and as comparison material or data for internal court circles. This is one of the reasons for the issuance of the Decree of the Chief Justice of the Supreme Court Number 144/KMA/SK/V11/2007 concerning Information Disclosure in Court which was later amended by SK KMA Number 1-144/KMA/SK/I/2011.

Before announcing or providing copies of decisions or court decisions to the information-seeking community, SK KMA Number 1-144/KMA/SK/I/2011 requires courts to obscure certain information to protect the dignity or interests related to privacy of the public. litigants in certain cases. Part VI of SK KMA Number 1-144/KMA/SK/I/2011 regulates the procedure for obscuring certain information in information that must be announced and information that can be accessed by the public. Prior to providing a copy of the information to the Applicant or including it in the decision directory, the Information Officer is required to obscure information that may reveal the identities of the parties below in decisions or judges' decisions in the following cases: a) Obscuring the case number and identity of victim witnesses in cases of criminal acts of decency, crimes related to domestic violence, crimes which according to the law concerning the protection of witnesses and victims, the identity of witnesses and victims must be protected, and other crimes. which according to law the trial is conducted in private; b) Obscuring the case number, identity of the litigants, witnesses and related parties in cases of: Marriage and other cases arising from marital disputes, adoption of children, wills, and civil, religious civil and state administration which according to the law the trial is carried out behind closed doors; c) Obscuring the case number and identity of the victim, defendant or convict in a child crime case.

In principle, all information that can enable the reader to identify the identity of a certain person or legal entity which must be obscured based on SK KMA Number 1-144/KMA/SK/I/2011, must also be obscured. The names of the Plaintiffs and Defendants must be changed to "Plaintiff" and "Defendant" only. Other information related to their identity such as address, occupation and so on must also be obscured by certain techniques. SK KMA Number 1-144/KMA/SK/I/2011 above regulates cases which before being announced in the directory of court decisions must be anonymized first, but in fact in the directory of decisions of the Supreme Court there are still cases that announced but not yet anonymized.

Quoted from the website of the Supreme Court's Registrar's Office, regarding the publication of decisions on child protection and divorce cases without being preceded by the process of disguising personal identity information, personal information can be accessed by the public. Even a complaint from the Indonesian Child Protection Commission (KPAI), stated that a child was deeply traumatized by the publication of a decision that was considered a disgrace, so the person concerned submitted a name change application to the District Court.[4]These things certainly violate the KMA Decree regarding the obligation of the

[4] Accessed from https://kepaniteraan.mahkamahagung.go.id/registry-news/1286-panitera-ma-untuk-perkara-terunjuk-laku-anonimisasi-pre-publikasi.

court to anonymize before announcing a case. In connection with the above background, the purpose of this study is to evaluate the implications of publishing decisions that are not anonymized in cases whose trials are conducted in private, and to evaluate legal remedies that can be taken by parties who feel aggrieved by not anonymizing decisions that have been published in the decision directory.

METHOD

This legal research method is an empirical legal research method, which functions to be able to see the law in a real sense and examine how the law works in the community, using qualitative analysis techniques to be presented descriptively and prescriptively. The location of this research was carried out in Makassar City, with the population and samples in this study namely the Makassar Religious Court, Makassar District Court, and Makassar Religious High Court.

In this study, the data collection techniques are a) Interview, a method of collecting data by asking questions orally to respondents, to obtain accurate and accountable data. And b) Documentation or literature study, the process of collecting various documents related to research problems, which are then analyzed to obtain clarity of problem-solving, then deductive conclusions are drawn from things that are general to things that are specific. After collecting data, then the existing data is analyzed using qualitative methods, namely analyzing the data obtained with theories, rules, and legal principles related to the problems studied, so that answers can be drawn on the researched problem.[5]

RESULT AND DISCUSSION

1. The implications of publishing decisions that are not anonymized in cases where the trial is carried out in private.

The Supreme Court (MA) as a judicial institution and one of the peaks of judicial power and the highest state judiciary has a strategic position and role in the field of judicial power because it not only oversees 4 (four) judicial environments but also management in the administrative, personnel and financial fields, as well as facilities. and infrastructure. The “one roof” policy presents responsibilities and challenges because the Supreme Court is required to demonstrate its ability to create a professional, effective, efficient, transparent and accountable institutional organization. With increasing reforms in the judiciary, this will result in greater demands for transparency and public information. The existence of continuous reforms can improve the image of the judiciary in the eyes of the public, legislative and executive bodies in Indonesia.

Through transparency, judges and court officials will be more careful in carrying out their duties and responsibilities. Traditionally, the form of court openness is "trials open to the public," except for cases of decency and cases of children. In fact, at the reading of the verdict, a trial open to the public is a must. Otherwise, the decision is null and void, van rechtswege nietig) Apart from being a judicial principle, openness is also one of the main pillars in the concept of good governance. In this context, there are 3 (three) relevant public rights related to the principle of openness, namely:[6]a) The right of the public to monitor and observe the behavior of public officials; b) The public's right to information; c) Right to object. Everyone has the right to communicate and obtain information to develop their personal and social environment, as well as the right to seek, obtain, possess, store, process, and convey information using various types of available channels. The direction to be

[5] Arung Labi, J. M., Susyanti Nur, S., & Lahae, K. 2021. *Analisis Hukum Pendaftaran Tanah Sistematis Lengkap (PTSL) Terhadap Tanah Tongkonan*. Supremasi: Jurnal Pemikiran, Penelitian Ilmu-Ilmu Sosial, Hukum dan Pengajarannya. 16(1), p. 118.

[6] Mahkamah Agung Republik Indonesia , *Keterbukaan Informasi di Pengadilan*, 2008, Jakarta: Mahkamah Agung Republik Indonesia, p. 9-10.

achieved is the management of quality information, information services in an easy, fast and low-cost way, the Court's performance is transparent, effective, efficient and accountable.[7]

Courts have different characteristics from other state institutions where transparency and guarantees of public access to court-managed information are very important. For a long time, the principle of "open court" or "open court principle" has become one of the main principles in the justice system in the world. This is guaranteed in Article 10 of the Universal Declaration of Human Rights which states that “everyone, in full equality, has the right to a fair and public trial by an independent and impartial tribunal, in the determination of his rights and obligations and in any criminal prosecution. handed down to him."[8]

In carrying out their duties and authorities, the Supreme Court and the judicial institutions under it have carried out their duties, one of which is to decide on a case submitted by the community. The verdict is certainly something that has been eagerly awaited, especially by those who are seeking justice for the issues being disputed. In addition, these decisions are very much needed and awaited by those or community groups who have an interest in understanding something based on judicial decisions, both academics and practitioners as well as non-governmental organizations who are concerned with the law in this country.

In criminal cases, trials that are open to the public are basically the rights of the accused, namely the right to be tried in courts that are open to the public. This principle is also regulated in Article 153 paragraph (3) of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP): "For the purpose of examining the judge, the chairman of the trial opens the trial and declares that it is open to the public except in cases concerning decency or the defendant is a child. ." According to Yahya Harahap, this is aimed at making all court proceedings clear, visible and known to the public. There should be no dark and whispering trials.[9]Not only regulated in the Criminal Procedure Code, Article 13 of Law Number 48 of 2009 concerning Judicial Power also regulates trials open to the public, namely: 1) All court hearings are open to the public, unless the law provides otherwise; 2) Court decisions are only valid and have legal force if they are pronounced in a trial open to the public; 3) Failure to comply with the provisions as referred to in paragraphs (1) and (2) may result in the court's decision being null and void.

The trial which is held in private is intended to protect the interests of the parties in the trial. Such as protection for children who commit criminal acts, protection for victims of immorality and also for things that are personal to someone or considered a disgrace to someone which if disclosed to the public can make a person feel ashamed or violated his privacy. In certain cases where the trial is carried out behind closed doors, of course, it is intended that one's privacy is maintained.

The purpose of publication of a decision is, apart from being an implementation of the UU KIP, it is also to fulfill one of the targets of the Supreme Court to be achieved, which is to make court decisions accessible to the wider community, both for learning purposes and as comparison materials or data for internal court circles. Mr. MP Stein said that the decision in the court was the act of the judge as an authorized state official which was pronounced in a trial open to the public and made in writing to end the dispute that the parties faced him.[10]Every decision that is decided on one day, within twenty-four hours, the decision must

[7] *Ibid*, p. 9-10.

[8] Liza Farihah, *Mendorong Keterbukaan Informasi di Pengadilan*, dari https://leip.or.id (Lembaga Kajian dan Advokasi Untuk Independensi Pengadilan), accessed on April 4, 2022.

[9] Yahya Harahap, 2010, *Pembahasan Permasalahan dan Penerapan KUHAP (Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali)*. Jakarta: Sinar Grafika, p. 110.

[10] Maruarar Siahaan, 2006, Hukum Acara Mahkamah Konstitusi Republik Indonesia, Jakarta: Mahkamah Konstitusi, p. 235.

be uploaded to the decision directory of the Supreme Court. If an officer at a court is late to upload a decision, it will affect the performance assessment of the court.[11]

A copy of the decision can be categorized as public information, Article 1 number 2 of the UU KIP defines public information as information that is generated, stored, managed, sent, and/or received by a public agency related to the organizers and administration of the state and/or the organizers and administration of the agency. other public information in accordance with this Law as well as other information related to the public interest. One of the public bodies in question is the judiciary, which in Part C of Appendix IInformation Commission Regulation Number 1 of 2010 concerning Public Information Service Standards, it is said to consist of the Supreme Court and the four lower courts (General Court, Religious Court, Military Court, and State Administrative Court) and the Constitutional Court.

The SK KMA regarding information disclosure in the Court basically regulates the procedures for obscuring certain information in information that must be announced and information that can be accessed by the public. In Number 1 letter a Roman VI Attachment I to the Decision of KMA 1-144/2011 it is clearly stated that: "Before providing a copy of the information to the Applicant or including it on the website, the Information Officer is obliged to obscure the information that may reveal the identity of the parties below in decisions or decisions of judges in the following cases: a) Obscuring the case number and the identity of the victim witness in cases: i) Crime of decency; ii) Crimes related to domestic violence; iii) Criminal acts which according to the law concerning the protection of witnesses and victims, the identities of witnesses and victims must be protected; iv) Other criminal acts which according to the law the trial is carried out in private.

Apart from being explicitly stated above, it should also be noted that the trial of cases of immoral crimes itself is also held behind closed doors. This is regulated in Article 153 paragraph (3)Criminal Procedure Code, that: For purposes of examination, the judge, the chairman of the trial, opens the trial and declares that it is open to the public, except in cases concerning decency or the defendant is a child. Thus, the identity of the victim in the decision on a crime of decency fulfills two conditions to be obscured. As a victim, the right to identity confidentiality is also guaranteed in Article 5 paragraph (1) letter iLaw Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims.So that based on the above provisions, it is the duty of information officers within the Supreme Court to obscure the identity of the victim in the decision of the immoral crime.

In order to meet the demands of the times and the rapid development of technology, the Supreme Court through the Decision of the Chief Justice of the Supreme Court number: 144/KMA/I/20011, concerning Guidelines for Information Services in Courts, provides a legal umbrella regarding information disclosure in the Court. This is a positive response from the Supreme Court to the demands of bureaucratic reform, for the realization of good governance. For now, the court institution is very open to the public so that the court's products can be accessed by the wider community. The community is considered a judicial oversight tool, so that court officials are more careful and honest in carrying out their duties.[12]

In every court there is an SOP (standard operating procedure), related to the publication of decisions. The SOP on decision publication activities starts from the basis of the decision of the Panel of Judges who decides on certain cases, after the Panel has compiled and examined the decisions to be published, the next step is to submit the decision to table III officers, table III officers coordinate with the Junior Registrar of Law and also the team for perform anonymization (obfuscation of information containing the identities of the litigants, witnesses and parties involved in the decision) based on the SK KMA 1-144 of 2011. The next

[11] Berdasarkan hasil wawancara dengan Ibu Nur Caya, S.H.,M.H., Hakim Tinggi pada Pengadilan Tingga Agama Makassar, on March 4, 2022.

[12] Based on the results of an interview with Mr. Faisal, Judge of the Makassar Religious Court, on February 17, 2022.

step is to publish the anonymized decision in the directory of court decisions available on the court's website.[13]

Decisions as a court product must maintain confidentiality or matters relating to someone's personal data. There are two court products, namely decisions and published decisions, namely those that have permanent legal force. All decisions must be published when they have permanent legal force, except for certain cases such as drugs, corruption. KMA 114/2011, may be published even though it is not yet legally binding, but in the form of photocopies or electronic manuscripts, not official copies. If anonymization is not carried out, it will have an impact on the spread of a person's personal data which can make a person feel embarrassed in the association, especially if the case is related to decency which sometimes causes a person as a victim to be traumatized.[14]

The publication of decisions is a small part of the information that can be obtained within the judiciary itself. It should be emphasized that KMA 1-144/KMA/SK/I/2011, is a legal basis that is applicable for the judiciary to publish various information in court. The information that can be obtained is related to the organizers and implementation of the duties and functions of the court, both related to the handling of cases, as well as related to the management of the court organization. Decisions are judicial products related to the end of a process in the court itself (information relating to the handling of cases).[15]Decisions that must be published are all court decisions and decisions, both those that have permanent legal force and those that are not yet final and binding (in the form of photocopies or electronic manuscripts, not official copies). In connection with the publication of decisions, it is also known as the anonymization of decisions, namely the blurring of information containing the identities of the litigants, witnesses and related parties in the decisions that will be published. This means that although access to information related to the decision of a case, the privacy of the parties, witnesses and related parties is maintained.[16]

According to Burhanuddin, anonymization is very important considering that if the decision has been entered into the decision directory, it will become public property, meaning that the decision can be accessed by all parties, if a person's personal data is not disguised in certain cases that have been regulated in the Act. KMA. In addition, cases such as immorality usually cause trauma to the victim, so that if anonymization is not carried out, the identity of the victim can be easily spread by irresponsible parties and this of course makes the victim uncomfortable and brings back the trauma of the victim.[17]Restrictions on access to information on decisions through anonymization procedures need to be carried out in accordance with KMA orders with the aim of guaranteeing the right to privacy, the identity of the parties involved in certain cases. The non-anonymization of the decision does not cause harm to the public interest but causes personal harm to each party involved in a case.

2. Legal remedies that can be taken by parties who feel aggrieved by not anonymizing the decisions that have been published in the decision directory.

In 2007 the Supreme Court issued a Decree of the Chief Justice of the Supreme Court (SK KMA) Number 144/KMA/SK/VIII/2007 concerning Information Disclosure in Courts. The Decree was issued before the enactment of Law No. 14 of 2008 concerning Public Information Disclosure, which became the pioneer of information transparency in the national bureaucracy. Along with the development of information needs in court, four years later the decree was revoked through SK KMA Number 1144/KMA/SK/I/2011.

[13] *Ibid.*

[14] *Ibid.*

[15] Based on the results of an interview with Mr. Burhanuddin, Registrar at the Makassar District Court, on February 15, 2022.

[16] *Ibid.*

[17] *Ibid*.

Based on the Law on Public Information Disclosure, Article 1 paragraph (1) stipulates that Information is information, statements, ideas, and signs that contain values, meanings, and messages, both data, facts and explanations that can be seen, heard, and read. presented in various packages and formats in accordance with the development of information and communication technology electronically or non-electronically. The data generated by the information technology system becomes the starting material for various kinds of research. Data on the number of cases, for example, can be used as material to find out the extent of the case load of a court, the caseload of judges, the time that must be spent on handling cases and incentives for HR. Study and Management of information such as decisions, case statistics,[18]

Article 52 paragraphs (1) and (2) of Law Number 48 of 2009 concerning Judicial Power stipulates that the Court is obliged to provide access to the community to obtain information relating to court decisions and costs in the trial process, and the court is obliged to submit a copy of the decision to the public. parties within the period determined based on the laws and regulations. Based on Article 52, it can be concluded that the publication of decisions is an obligation for the judiciary, so that there are no errors and biased understandings regarding this matter. Information in Court,

One of the information that can be accessed on the website of the Supreme Court is court decisions. Openness to court decisions is actually needed to show quality. The quality of the decision cannot be separated from the ability and integrity of the judge. With the high ability and integrity of judges who make decisions, of course, they will present fair court decisions in accordance with legal ideals. Disclosure of public information is a means of optimizing public oversight of the administration of the state and other public bodies and everything that affects the public interest. The judge's decision, which is currently so easily accessible to the public, will certainly be critically assessed by the community. This requires judges to be careful and act carefully in making decisions.

One of the important principles as stipulated in Article 2 paragraph (3) of the UU KIP is that every Public Information must be accessible to every Public Information Applicant quickly and on time, at low cost, and in a simple way. Currently, the decisions of the judiciary are also easily accessible, the decisions have been uploaded to the official decision directory of the judiciary, so that to access these decisions, it is not necessary to go to the office or the judiciary that decides the case. Currently all parties have the right to access court decisions and are not only intended for justice seekers (justiabelen) because in principle court decisions are open to the public, so that if there is a judge's decision that is not read out in a trial open to the public, then the decision is null and void by law.

In cases where the trial is conducted behind closed doors, the court is obliged to anonymize before publishing the decision, this is done to protect the privacy of the parties in the case.[19]Anonymization of decisions is very important to do considering that in the decision there are personal data of a person which if spread can cause a person to be violated by his privacy or feel ashamed / inferior in public relations because the cases contained in the decision are considered disgraceful, such as in cases of immorality or divorce. and also child crimes. The anonymization of the decision is the obligation of the court, so that if it is violated and there are parties who feel aggrieved about it, that party can file an objection or report to the relevant court. The reporting mechanism is to report or file an objection to the court and the complaint/report will be forwarded to the Supreme Court, and the Supreme Court will follow up on the Supervisory Body at the Supreme Court.[20]

As previously explained, those given the task of publishing decisions in a court of law are table III officers in coordination with the Junior Registrar of Law and also the team to

[18] Ali Aspandi, 2002, *Menggugat Sistim Hukum Peradilan Indonesia Yang Penuh Ketidakpastian*, LEKSHI, Mediatama, Surabaya, p.7

[19] Based on the results of an interview with Mr. Faisal, Judge of the Makassar Religious Court, on February 17, 2022.

[20] *Ibid.*

perform anonymization (obfuscation of information containing the identities of the litigants, witnesses and parties involved in the decision) by based on the SK KMA 1-144 of 2011. The SK KMA has regulated the procedure for anonymizing decision documents, and these rules must be the reference for the officer appointed to perform anonymization and publication. The method of anonymizing identity in documents according to SK KMA 1-144/2011 is by changing the name of the party and the position in question in the case. Another way is to shorten the information, as in writing an address.[21]

Decisions that will be determined by a trial of legal cases are taken based on the results of the deliberation of the panel of judges, which are confidential. In a deliberation session, each judge is obliged to submit written considerations or opinions on the case being examined and become an inseparable part of the decision. In practice, the youngest judges of class and rank are invited to present their legal considerations first, after that the judges who are more senior and terminated by the Chief Judge of the Assembly. If there is a difference of opinion, it is taken based on a majority vote, and the different opinion can be included in the decision as a dissenting opinion and the judge with the different opinion is still obliged to sign the decision.[22]

A decision must be published immediately within twenty-four hours after the decision is decided by the panel of judges (one day minute), this rule has been applied but this also causes frequent errors in the publication of the decision, one of which is the absence of anonymization in cases - Cases whose hearings are held behind closed doors. The non-anonymization of a decision that should be anonymized occurs because of the negligence of the officer assigned to publish it, especially in courts in certain cities where in one month there are thousands of decisions made by the panel of judges, things like negligence officers in anonymizing sometimes happens. If a decision based on the rules is mandatory to be anonymized but is not carried out by an officer at the court then it is the negligence of the court and of course the party who feels aggrieved can file an objection because it is the right of the party who feels aggrieved. For decisions that have not been anonymized but have already been published, parties who feel aggrieved can submit an application to the Registrar at the relevant court and request that anonymization be carried out immediately. As long as the decision has not been anonymized, the decision can be temporarily unpublished.[23]

The public has the right to obtain sufficient access to obtain the public information they need, but of course the right to such information is only limited to information that is not excluded or only to information that is permitted to be accessed. Everything that results in the public interest requires the management of public information. Public bodies and the community both have an obligation to manage information so that it is more developed and useful for many people. In managing this information, it is very likely that conflicts or disputes will arise between the government or public bodies as institutions that manage public information and the general public as parties seeking or requesting public information.

The law guarantees the right of the Information Applicant to take legal action if he is not satisfied with the information service provided by the Court Information Officer. As explained in Supreme Court Regulation Number 2 of 2011 concerning Information Dispute Settlement in Court, before submitting a dispute to the Information Commission, the Petitioner must first file an Objection. Before suing the PN/PTUN, you must first go through the Information Commission. The reasons for filing an objection are, among others, as stated above, namely if the request for information is rejected, the information that must be announced is not announced, the request for information is not responded to, the

[21] Based on an interview with Mr. Alfiand Apriady, S.Kom, IT Admin and Case Analyst Staff at the Makassar Religious High Court, on March 4, 2022.

[22] Mustafa Bola, Romi Librayanto, Muhammad Ilham Arisaputra, 2015, *Korelasi Putusan Hakim Tingkat Pertama, Tingkat Banding, dan Tingkat Kasasi (Suatu Studi Tentang Aliran Pemikiran Hukum)*, Hasanuddin law review, 1(1), p. 27-46.

[23] *Ibid.*

information provided is not as requested, the request for information is not fulfilled or the applicant is asked for an unreasonable fee.

The State Administrative Court (PTUN) is a judicial institution under the Supreme Court (MA) which is tasked with resolving all State Administrative matters (TUN). The PTUN has the authority to decide on administrative disputes related to beschikking issued by TUN officials, in the event that the case submitted to the Administrative Court which is the object of each claim by the plaintiff is related to beschikking issued by TUN officials which is considered detrimental to one party and even many parties, with the existence of KIP Law and PERMA No. 2 of 2011 concerning Procedures for Settlement of Public Information Disputes in Court, the PTUN's authority has also increased, especially in adjudicating Public Information Disputes (SIP) this is in accordance with the provisions of Article 47 paragraph (1) of the KIP Law and Article 2 PERMA No.

Violation of the KMA SK is classified as Maladministration, based on Article 1 point 3Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia Maladministration is defined as behavior or action against the law, exceeding authority, using authority for purposes other than those for which the authority is intended, including negligence or neglect of legal obligations in the administration of public services carried out by the State Administrators and the government that cause material and/or immaterial losses to the government. communities and individuals. The most common forms of maladministration are protracted delays, abuse of authority, procedural irregularities, neglect of legal obligations, non-transparency, negligence, discrimination, unprofessionalism, unclear information, arbitrary actions, legal uncertainty, and mismanagement.[24]Violation of the SK KMA by the officer who is given the responsibility to publish the decision, but does not do so because of his negligence, causing harm to the person is classified as Maladministration. Because maladministration is classified as a violation of the law, the party who feels aggrieved can file a claim for compensation to the responsible party, namely the court that publishes the decision without anonymizing.

There are various kinds of maladministration such as procedural irregularities, abuse of authority, including negligence or neglect of legal obligations, discriminatory actions, requests for compensation, and others. Not only by the government, maladministration actions can also be carried out by BUMN, BUMD, BHMN or private entities or even individuals. Maladministration is an act that violates the law. There are several types of maladministration actions that often occur. First, protracted delays, namely in the process of providing public services to the community, a public official repeatedly delays or delays the time so that the administrative process is not on time as determined, resulting in uncertain public services. Second, Abuse of authority is the act of a public official who uses his authority (rights and power to act) more than what should be done so that the action is contrary to applicable regulations, and makes public services unacceptable to the public. Third, procedural deviations, namely in the public service process there are stages of activities that are passed to get good public services, but in the public service process it often happens that public officials do not comply with the stages that have been determined and properly so that people do not get good public services. and make public services not well received by the community. Third, procedural deviations, namely in the public service process there are stages of activities that are passed to get good public services, but in the public service process it often happens that public officials do not comply with the stages that have been determined and properly so that people do not get good public services. and make public services not well received by the community. Third, procedural deviations, namely in the public service process there are stages of activities that are passed to get good public services, but in the public service process it often happens that public officials do not

[24] Accessed from https://www.Hukumonline.com/klinik/a/form-form-maladministration, on April 12, 2022.

comply with the stages that have been determined and properly so that people do not get good public services.[25]

As stated above, maladministration is a behavior or act that violates the law and ethics in the process of administering public services. Both unlawful acts (Onrechtmatige Daad) and unlawful acts by the Authority (Onrechtmatige Overheidsdaad) are governed by the same provisions or legal basis. Namely Article 1365 BW which stipulates that every act that violates the law, which brings harm to another person, obliges the person who, because of his fault, published the loss, compensates for the loss. In addition, it is also regulated in the general explanation of Law Number 30 of 2014 concerning Government Administration, the fifth paragraph that citizens can also file a lawsuit against decisions and/or actions of government bodies and/or officials to the State Administrative Court.

In Article 1 point 8 what is meant by Action (Handeling) is Government Administrative Action, namely the act of Government Officials or other state administrators to perform and/or not to take concrete actions in the context of administering the government. In theory, Administrative Actions (Bestuurshandelingen) can be divided into two, namely Feitelijk Handelingen (commonly called Material Actions), ordinary actions or factual actions (Article 1 point 8 Jo. Article 87 of the Government Administration Act), and also Rechtshandelingen (Legal Actions).). This factual action is called "ordinary" because basically this action has no legal effect administratively. Therefore it can also be called factual action.[26]

Factual actions are real or physical actions carried out by the state administration. This action is not only limited to active actions but also passive actions, what is meant by passive actions in this case is the silence of something. According to Munir Fuady, an unlawful act is an act against the law in the civil sector. Because, for acts of violating criminal law (delict) or what is called the term "criminal act" has a completely different meaning, connotation and legal arrangement.[27]An unlawful act here must be understood as an act or omission that violates the (subjective) rights of others, or is contrary to the obligations of the perpetrator, or behavior that is contrary to good morals (ethics) or to proper behavior in social traffic relating to people. other goods or goods, then because of his mistake caused by his actions, he is obliged to compensate for the loss. Based on the consideration of Arrest HR on January 31, 1919, the criteria to determine an act that is unlawful in general are as follows:[28]a) Contrary to the legal obligations of the perpetrator; b) Violating the subjective rights of others; c) Violating the rules of morality (goede zeden); d) Contrary to the principles of propriety, thoroughness and caution in social life.

Subjective rights, according to Prof. Meijers, is "a special authority of a person recognized by law, which is given to him in his interest" Subjective rights recognized by jurisprudence in the Netherlands:[29]1) Material rights and other absolute rights (eg property rights); 2) Personal rights (eg freedom, honor and reputation); 3) Special rights, such as the tenant's right of occupancy. The existence of an error, either due to negligence or intentional, is a condition for PMH perpetrators to be responsible. Basically, the element of error follows the unlawful nature of an act, because of an error, the PMH perpetrator must be responsible for his actions. Every act that violates the law, which causes harm to another person, obliges

[25] Accessed from https://ombudsman.go.id, on April 14, 2022.

[26] Safri Nugraha, 2007, *Hukum Administrasi Negara*, Depok: Badan Penerbit Fakultas Hukum Universitas Indonesia, p. 85.

[27] Munir Fuady, 2010, *Perbuatan Melawan Hukum (Pendekatan Kontemporer),* Bandung: PT.Citra Aditya Bakti, p.1.

[28] Muhammad Adiguna Bimasakti, *Onrechtmatig Overheidsdaad Oleh Pemerintah Dari Sudut Pandang Undang-Undang Administrasi Pemerintahan*, Jurnal Hukum Peratun, Volume 1 Number 2, August 2018, p. 265 - 286

[29] Marianna Sutadi, *Perbuatan Melanggar Hukum Oleh Penguasa* (PMHP/OOD), Pada Acara Bimbingan Teknis Peradilan Tata Usaha Negara Mahkamah Agung RI Tanggal 9 Januari 2009, accessed fromhttps://ptun-jakarta.go.id/, on April 13, 2022.

the person who, because of his fault, issued the loss, to compensate for the loss. The legal basis for the person or legal entity that demands compensation due to PMH carried out by the Government is Article 1365 BW. PMH can occur because of actions (doing or not doing) In the above case,

In this case, if the action of the State administration violates one of the four criteria above, then it can be said to have violated the law. Violation of the rules regarding the anonymization of decisions by court information officers who are supposed to be responsible and obliged to perform anonymization based on the SK KMA then the violation is contrary to the legal obligations of the perpetrator, violates the subjective rights of others and is contrary to the principles of propriety, thoroughness and prudence. The officer responsible for the publication of the decision should carry out his duties carefully and thoroughly so as not to cause harm to others. Due to negligence by the officer appointed to publish the decision, the subjective rights of others are violated, namely the personal rights of the person whose identity is spread due to the publication of the decision in the decision directory without being anonymized. These personal rights include freedom, honor and good name, because the purpose of anonymization is to maintain and guarantee the right to privacy, the identity of the parties involved in certain cases. The non-compliance of the rules regarding the anonymization of the decision causes immaterial and material losses for a person.

Violations of court officials against SK KMA 1-144/2011 regarding anonymization orders on decisions in certain cases that have been regulated in the KMA are classified as procedural deviations carried out by information officers in the public service process, in this case services in terms of providing information, officers who tasked with publishing and anonymizing decisions not complying with the predetermined stages, namely anonymizing according to the rules contained in SK KMA 1-144/2011. Due to the negligence of the judicial officer causing material and/or immaterial losses to the community and individuals, in this case the party whose identity is not anonymized in a decision feels an immaterial loss, namely the person becomes embarrassed and inferior in social interaction,

As stated in SK KMA 1-144/2011, it has been stipulated that information that can be requested/accessed by the public and other information managed by the court can only be accessed by the public with the permission of the Chairperson of the Court if the accessing of the information will not harm someone's privacy, someone's commercial interests or legal entities, law enforcement efforts, policy formulation processes, defense, security and foreign relations of the Indonesian state and national economic resilience. Restricting access to decisions in order to guarantee privacy rights, the identity of the parties involved in certain cases must be anonymous before being published in the court decision directory. Based on this, it is clear that although the court is obliged to provide information in the form of publication of decisions to the public through the directory of decisions of the Supreme Court,

CLOSING

The implication of publishing decisions that are not anonymized in cases where the trial is conducted in private is that it can cause harm to other people, both material and immaterial losses. The biggest implication is immaterial losses, which can cause a person to become traumatized, embarrassed in socializing in society, spreading one's personal data and violating one's privacy. The non-anonymization of the decision does not cause harm to the public interest but causes personal harm to each party involved in a case.

Legal remedies that can be taken by parties who feel aggrieved by not anonymizing the decisions that have been published in the decision directory are that the party can file a lawsuit against the decisions and/or actions of bodies and/or Government Officials to the State Administrative Court, or can file objections or the report to the court and the letter of complaint/report will be forwarded to the Supreme Court, and the Supreme Court will follow up through the Supervisory Body at the Supreme Court. In addition, parties who feel

aggrieved by not anonymizing the decision can file a claim for compensation to the court based on an act that violates the law of Article 1365 BW.

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