

## Reconstruction of the Authority of the Administrative Court (Ptun) To Adjudicate Positive Fictitious Decisions

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**Abstract:** This research discusses the lack of effectiveness in the authority of the State Administrative Tribunal (PTUN) in handling disputes arising from positive fictitious decisions, as regulated in Law Number 30 of 2014 on Government Administration. This law emphasizes PTUN's role in providing legal certainty for decisions that are deemed legally granted despite the absence of a response from the relevant authorities. Although PTUN has jurisdiction over such disputes, the overly formalistic procedural approach often leads to lawsuits being dismissed or deemed inadmissible, contradicting the principles of modern administrative justice. This study aims to reconstruct PTUN's authority to enhance its effectiveness in adjudicating cases involving positive fictitious decisions. A normative juridical approach is applied by examining applicable legal provisions, analyzing court rulings, and referring to relevant legal literature. The findings indicate that procedural rigidity and normative ambiguity remain significant obstacles, particularly in determining the object of the dispute and proving the silence of government officials or agencies. This research offers a conceptual reconstruction of PTUN's authority, advocating for a more progressive judicial interpretation and the enforcement of the due process of law principle. Strengthening PTUN's role is expected to improve administrative accountability, expand public access to justice, and provide better legal certainty in addressing uncertainties arising from government inaction.

**Keywords:** Judicial Interpretation; Positive Fictitious Decision; Procedural Law; State Administrative Tribunal; Substantive Justice.

### 1. Introduction

Administrative law in Indonesia continues to evolve in line with increasing demands for transparency, accountability, and fairness in government (Lestary & Suryani, 2024). The State Administrative Court (PTUN) plays a crucial role in controlling government policies and administrative actions, including resolving disputes related to positive fictitious decisions. These are decisions that are considered valid due to the absence of a response from officials within a certain time limit (Sunstein & Vermeule, 2020). This mechanism aims to protect citizens from legal uncertainty caused by bureaucratic delays. However, in practice, the PTUN often faces obstacles in adjudicating these cases due to normative ambiguity, procedural rigidity, and an overly formalistic approach to procedural law.

These obstacles often hinder the dispute resolution process, causing citizens who should be receiving legal certainty to instead be trapped in prolonged uncertainty. One of the main challenges is the lack of clear standards regarding what constitutes a "positive fictitious decision" and what is considered a reasonable time frame for officials to respond to requests or administrative decisions (Patyi, 2022). This ambiguity makes it difficult for the Administrative Court to assess whether a policy or decision meets the criteria to be considered valid or invalid. Additionally, overly rigid and formalistic procedures also slow down access to justice for citizens facing administrative issues, especially in the context of rapidly evolving bureaucracy. Therefore, to enhance the effectiveness of the PTUN, reforms are needed in the regulations governing fictitious positive decisions, as well as a more flexible approach in handling administrative cases (Al'anam et al., 2024).

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Received: Mei 20, 2025;

Revised: Jun 09, 2025;

Accepted: Jun 16, 2025;

Published: Jun 30, 2025.



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Several studies have highlighted this issue. Identifying the weakness of procedural regulations on positive fictitious decisions that complicate evidence in court, shows that the absence of explicit documents causes ambiguity in the subject matter of the dispute. Administrative court judges often hesitate in deciding these cases because formal legal limitations highlight that fundamental principles of good governance (AUPB) have not been fully applied in assessing the validity of these decisions. Meanwhile, it is recommended that administrative court procedural law be updated to be more responsive to implicit administrative decisions (Cafaggi & Iamiceli, 2021).

These studies reveal that although AUPB principles such as transparency, accountability, and public participation should be the basis for assessing the validity of administrative decisions, in reality the application of these principles is often neglected in practice at the State Administrative Court (Rozsnyai, 2024). This leads to legal uncertainty for citizens filing lawsuits, given that the current procedures are not flexible enough to respond to the evolving legal needs of society. Some parties also suggest the need for clearer regulations regarding the time and procedures for handling positive fictitious decisions, including granting judges greater authority to assess substantively and not be limited to administrative formalities. With these updates, it is hoped that the PTUN can be more effective in carrying out its supervisory function and providing better legal protection for the public (Gusthomi et al., 2024).

Although various studies have discussed the complexity of positive fictitious decisions, there is still no comprehensive conceptual model for systematically reconstructing the authority of the Administrative Court. Thus, this research aims to bridge this gap by formulating a more progressive legal framework, taking into account the principles of administrative justice, protection of rights, and legal certainty (Arifin, 2024b). Using a normative and conceptual approach, this study will examine relevant legislation and judicial practices. The main contribution of this research is to offer a new perspective on the resolution of administrative disputes that is more adaptive to the needs of modern governance and strengthens the role of the judiciary in protecting the rights of citizens.

As a first step in reconstructing the authority of the Administrative Court, this study will explore various alternative solutions, both from a legislative and interpretative perspective (Varuhas, 2023). The legislative approach includes proposals for amendments to the law that provide a clear legal basis for regulating positive fictitious decisions in more detail, including provisions on reasonable time frames for officials to respond to administrative requests. In addition, changes are needed in the PTUN's procedures to make them more adaptive to the characteristics of modern administrative disputes, which are often implicit and not always explicitly documented (Arifin, 2024b). The interpretative approach, on the other hand, will examine the role of the Supreme Court in providing clearer guidance on the mechanisms of proof and the application of AUPB principles in adjudicating disputes related to positive fictitious decisions. The issuance of a Supreme Court Circular Letter (SEMA) or Supreme Court Regulation (PERMA) governing the procedures and authority of the PTUN in this regard could provide clear and consistent guidelines for PTUN judges in deciding cases related to non-explicit administrative decisions. Thus, it is hoped that the reconstruction of the PTUN's authority will not only address existing practical challenges but also strengthen the administrative legal system of the state to be more responsive, transparent, and just (Risadde et al., 2024).

Furthermore, in the context of reconstructing the authority of the State Administrative Court, it is important to pay attention to strengthening human resource capacity, particularly judges who handle state administrative cases (Heusala & Koroteev, 2023). State Administrative Court judges must be equipped with more in-depth knowledge and skills regarding the dynamics of modern administrative law and issues that often arise in relation to positive fictitious decisions. Intensive education and training on the principles of AUPB, as well as more flexible proof methodologies, will enable judges to be more responsive in handling cases that are not only limited to document formalities, but also substance that reflects public interest and justice. In addition, information technology also plays an important role in improving the efficiency and transparency of the judicial

process. For example, an electronic filing system can facilitate public access to the Administrative Court while also making it easier to monitor the time allotted for administrative officials to respond to requests or decisions (Kyriakides et al., 2021).

With this comprehensive reform, the PTUN is expected to not only be able to address the issue of fictitious positive decisions more effectively, but also become a judicial institution that is more adaptive to the needs of modern society. This will strengthen public trust in the state administrative justice system and increase legal certainty for citizens in dealing with administrative disputes (Putri & Taun, 2023). Furthermore, these changes will provide better protection for citizens' rights, while also reinforcing the principles of transparency, accountability, and fairness in the conduct of government (Androniceanu, 2021).

## 2. Materials and Methods

This study applies a normative juridical approach using qualitative methods, focusing on the analysis of positive legal norms, legal doctrines, and jurisprudence related to the authority of the State Administrative Court (PTUN) in adjudicating positive fictitious decisions (Sutrisno, 2024). This approach was chosen because the main issue being studied is closely related to the structure and legal system in force, particularly in the field of administrative law and PTUN procedural law. The data in this study comes from three categories of legal materials: primary, secondary, and tertiary (Safnul et al., 2024). Primary legal materials include legislation, such as Law No. 5 of 1986, Law No. 9 of 2004, and Law No. 51 of 2009, including court decisions that have precedential value. Secondary legal materials consist of books, journal articles, previous research results, and the views of experts in the field of administrative law. Meanwhile, tertiary legal materials include legal dictionaries and encyclopedias that serve as support in understanding legal concepts in greater depth (Hamzani et al., 2023). The data collection process was carried out through structured literature studies, exploring various legal documents, academic literature, and court decisions relevant to the research topic. The data was analyzed using qualitative methods, employing legal interpretation (statutory, systematic, and teleological) and a conceptual approach. Statutory interpretation is used to understand the normative meaning of regulations, systematic interpretation to trace the relationships between norms, and teleological interpretation to identify the legal objectives in protecting citizens' rights. A comparative law approach is used to examine similar regulations in other countries as a reference for legal reconstruction in Indonesia. This analysis aims to build a strong legal argument regarding the urgency of reconstructing the authority of the Administrative Court, as well as to formulate an ideal model of authority that prioritizes justice, legal certainty, and the protection of citizens' rights. With this method, it is hoped that this research can contribute to the development of administrative law and the Administrative Court system in Indonesia.

## 3. Results and Discussion

### 3.1 *Main Analysis of the Reconstruction of the Authority of the State Administrative Court in Adjudicating Positive Fictitious Decisions*

The State Administrative Court (PTUN) acts as a judicial institution that handles disputes between individuals and legal entities with the government, particularly those related to decisions in the realm of state administration (Kupita, 2021). In its development, administrative law has undergone dynamics that require the expansion of the PTUN's authority, particularly in handling positive fictitious decisions. These decisions refer to situations where a request is deemed to have been granted because the authorized official did not respond within a certain time frame. This mechanism poses legal challenges because the decision is not based on explicit administrative action but rather on the doctrine of legal presumption. Therefore, there is normative ambiguity in determining the authority of the PTUN to adjudicate, assess the legal validity, and affirm the applicability of such decisions (Suksi, 2021).

The reconstruction of the authority of the State Administrative Court (PTUN) in adjudicating fictitious positive decisions is important for creating a clearer and more effective administrative justice system. In this context, the main analysis of the reconstruction of the PTUN's authority aims to understand the extent to which the PTUN's authority can be expanded or adjusted to the increasingly complex developments in administrative law. One of the main issues that needs to be raised is how the PTUN can overcome the normative ambiguity that often arises from decisions that are not made through explicit administrative actions, but rather through legal presumptions that are sometimes difficult to measure. Therefore, this reconstruction of authority must be able to provide clearer guidelines for PTUN judges in determining the validity of positive fictitious decisions, taking into account the principles of justice, transparency, and accountability that should form the basis for the enforcement of administrative law. Additionally, reforms are needed in the regulations governing the procedures for submitting and reviewing fictitious positive decisions to expedite the dispute resolution process while ensuring that citizens' rights remain well protected.

### 3.2. *Challenges in Regulation and Judicial Practice*

One of the main obstacles in implementing the PTUN's authority over fictitious positive decisions is the lack of a clear legal basis in Law No. 5 of 1986 on Administrative Courts, even though this law has been amended by Law No. 9 of 2004 and Law No. 51 of 2009. The absence of explicit regulations governing the acceptance, examination, and resolution of disputes over positive fictitious decisions leads to legal uncertainty in judicial practice (Elena & Viktor, 2024).

In some cases, judges have difficulty determining whether positive fictitious decisions can be the subject of disputes. This is because such decisions do not have a written document form, unlike conventional state administrative decisions, which have clear and specific characteristics. As a result, there is ambiguity in the law enforcement process, which ultimately harms the public who file requests through this mechanism. Similar issues also arise in other legal systems, where the lack of evidentiary mechanisms hinders the effectiveness of judicial review of silent administrative decisions (Eliantonio & Vogiatzis, 2021).

These difficulties point to the need for reform in the legal approach used by the Administrative Court to address the ambiguity that arises in dealing with positive fictitious decisions. One possible solution is to introduce a more flexible concept of evidence, allowing judges to evaluate evidence indicating the delay or lack of responsiveness of the relevant officials. Additionally, there is a need to strengthen legal provisions regarding reasonable time limits for officials to issue decisions, to avoid creating legal uncertainty that harms the affected parties. Thus, the reconstruction of the PTUN's authority in adjudicating positive fictitious decisions is not only related to procedural aspects but also involves adjusting the fundamental principles of administrative law to be more responsive to societal needs, without compromising the principle of justice that must be upheld in every decision (Rusakova et al., 2020).

### 3.3. *Comparative Study with Other Countries' Legal Systems*

In the legal systems of countries such as the Netherlands and France, the concept of positive fictitious decisions has been specifically accommodated in administrative regulations. The regulations applied cover the submission procedure, verification of legality, and substantive testing mechanisms for such fictitious decisions (Chen et al., 2022). In contrast, in Indonesia, to date, there is no specific mechanism that explicitly regulates how positive fictitious decisions can be tested in the Administrative Court, whether in terms of legal validity, the proof process, or other substantive aspects. Some studies reveal that without a systematic evidentiary procedure, positive fictitious decisions are merely formalities without any real legal force. In the context of the US judiciary, the Supreme Court plays a significant role in interpreting administrative law, including in setting the limits of judicial review of administrative decisions that are not explicit (Negara, 2023).

This situation highlights the need for a more comprehensive and structured approach to regulating positive fictitious decisions in Indonesia, drawing on the experiences of countries such as the Netherlands and France, which have specific regulations for this purpose. In the legal systems of countries like the Netherlands and France, the concept of positive fictitious decisions has been specifically accommodated in administrative regulations. The regulations applied cover the submission procedure, verification of legality, and substantive testing mechanisms for such fictitious decisions. In contrast, in Indonesia, to date, there is no specific mechanism that specifically regulates how positive fictitious decisions can be tested in the State Administrative Court, either in terms of legal validity, the evidence process, or other substantial aspects (Tschopp et al., 2020). Some studies reveal that without a systematic evidentiary procedure, positive fictitious decisions are merely formalities without any real legal force. In the context of the US judiciary, the Supreme Court plays a significant role in interpreting administrative law, including in setting the limits of judicial review of administrative decisions that are not explicit. This situation highlights the need for a more comprehensive and structured approach to regulating positive fictitious decisions in Indonesia, drawing on the experiences of countries such as the Netherlands and France, which have specific regulations for this matter (Muhammad & Long, 2021).

#### 3.4. Recommendations for Reconstruction of PTUN Authority

Based on legal analysis and comparison with practices in other countries, the reconstruction of the PTUN's authority to adjudicate positive fictitious decisions needs to be carried out through two main approaches, namely the legislative approach and the interpretative approach. The legislative approach emphasizes the importance of amending the law on administrative justice. The government and the House of Representatives need to add explicit provisions that provide a legal basis for the PTUN in handling fictitious positive decisions, so that there is no longer any ambiguity in their application. The interpretative approach requires the Supreme Court to play an active role in providing clearer guidance (Kusdarini et al., 2022).

The issuance of a Supreme Court Circular Letter (SEMA) or Supreme Court Regulation (PERMA) regulating the mechanism for proving and assessing the validity of fictitious positive decisions will provide guidelines for judges in deciding cases related to this issue. In addition, strengthening the capacity of judges is also a crucial factor in reconstructing the authority of the Administrative Court. Administrative judges need to receive intensive training on the interpretation of modern administrative law, enabling them to interpret the legal principles related to positive fictitious decisions in a more progressive and citizen-rights-oriented manner. With this reform, it is hoped that the Administrative Court can perform its functions more effectively and responsively in upholding legal certainty and protecting citizens' rights within the realm of administrative law (ZULKARNAIN, 2020).

In addition, the reconstruction of the PTUN's authority must also involve closer collaboration between the legislative, executive, and judicial branches in creating a more transparent and accountable administrative justice system. In this case, public involvement in the process of forming regulations and policies related to positive fictitious decisions is also very important. The public must be given the opportunity to provide input on procedures that are more effective and acceptable to all parties, especially in terms of protecting their basic rights. Emphasizing public participation will strengthen the legitimacy of every policy produced and increase public trust in the legal system in Indonesia. On the other hand, the implementation of information technology in the PTUN administrative process, such as electronic filing systems and real-time monitoring, can accelerate the resolution of disputes and minimize the potential for delays in decision-making by authorized officials (Wardana et al., 2023).

Thus, the reconstruction of the PTUN's authority must be seen as a holistic step that involves not only changes in regulations and procedures but also in institutional capacity building and broader public participation, in order to achieve a more efficient, responsive, and fair state administrative legal system. Furthermore, to support the

success of the reconstruction of the PTUN's authority, it is necessary to evaluate existing practices in the current administrative court system. This evaluation is important to identify shortcomings in administrative dispute resolution procedures and to ensure that the proposed changes are in line with the evolving needs of society and the challenges faced by the government. One important step in this evaluation is to conduct a review of the caseload at the Administrative Court and find solutions to reduce delays in case handling, such as implementing a priority system for cases related to the basic rights of the community (Fajri, 2023).

In addition, the reconstruction of the PTUN's authority also needs to take into account the implementation of alternative dispute resolution (ADR) mechanisms as an effort to accelerate the settlement of cases without having to go through formal judicial proceedings. Mediation or arbitration systems can be applied in cases of positive fictitious decisions, thus providing an alternative for the parties involved to reach an agreement more quickly and efficiently. Strengthening the capacity of ADR administrators and the role of mediators also needs to be considered in this regard. With a more varied dispute resolution system, the PTUN can focus more on cases that require more in-depth legal decisions, while other disputes can be resolved through simpler channels that do not take up excessive time. (Firman et al., 2024)

Overall, the restructuring of the PTUN's authority requires comprehensive and integrated changes across various aspects, including regulations, procedures, institutional capacity, public participation, and the use of technology. With these steps, it is hoped that the PTUN can become a more responsive, effective, and efficient institution in handling state administrative cases, particularly in the context of positive fictitious decisions, and ultimately strengthen the state administrative justice system in Indonesia (Arifin, 2024a).

#### 4. Conclusions

This study highlights that the authority of the Administrative Court (PTUN) in examining and deciding cases of positive fictitious decisions still faces various challenges, both in terms of norms and implementation. Although the concept of positive fictitious decisions is regulated in Article 3 of Law No. 30 of 2014 on Government Administration, its implementation still faces various obstacles in legal practice. The PTUN's authority in handling such cases still lacks sufficient clarity and consistency. The lack of clarity in regulating the scope of the PTUN's absolute authority has created legal uncertainty for citizens seeking protection through the fictitious positive mechanism. Studies of court decisions and normative analysis indicate that the limitations of the PTUN's procedural law in handling fictitious positive decisions have weakened the protection of citizens' rights and limited the effectiveness of judicial control over the government's passive actions. In response to these issues, this study recommends reconstructing the PTUN's authority with a more substantial approach, namely expanding the interpretation of the subject matter of the dispute to include the legal consequences of the silence of government officials. A progressive hermeneutic approach and more proactive legal protection principles can serve as the basis for this change, enabling the PTUN to focus not only on procedural aspects but also to assess the substance and impact of positive fictitious decisions more comprehensively. This study contributes to strengthening the role of administrative courts within Indonesia's legal system and promotes legislative reforms that are more adaptive to the developments of modern government administration. These findings are expected to serve as a foundation for policymakers and legal practitioners in designing an administrative court system that is more adaptive, oriented toward justice, and capable of providing legal certainty in a more optimal manner.

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