

ABSTRACT

"The State Administrative Decision regarded as a Private Law Action according to Article 2 Section a, Law number 5 of 1986 as amended by Law number 9 of 2004 concerning Amendment to Law number 5 of 1986 concerning State Administration Judicature"

Several legal issues are reviewed in this dissertation, as the following, (1) the characteristic of state administrative decision, which is considered as a civil action, (2) state administrative disputes which are in cooperated into a civil action. This research is applying a normative approach, therefore statute approach, conceptual approach, as well as case approach are used in this methods.

Some characteristic differences between agreements of public and private (civil) law are found in this Research, which are from the views of authority and its binding decision. The fundamental of Public Law is authority. Thus authority represents the use of State Power. The binding decision of public action is binding to all the people. On the other hand, the fundamental of a civil action is the legal competency which derived from the legal subject (person or legal entity). The civil action therefore is binding only to the parties involved.

The state administrative disputes which are in cooperated into a civil action by General Court is against the principles of State Administrative Court which related to basic reviews or any reason to sue (Article 53 section (1) and section (2), Law number 5 of 1986 jo. Law number 9 of 2004 and dispute matters). Furthermore, the above dispute will not be not settled by any administrative law judges, as in General Court there are only judges for criminal and civil law.

This dissertation gives an input, that it is time to form the State Administrative Court in general, which are able to settle any state administrative disputes including but not limited to the state administrative decision which is considered as a civil action. Thereby, several amendments are needed in Law number 5 of 1986 jo. Law number 9 of 2004 concerning amendment to Law number 5 of 1986 concerning State Administration Judicature in particular the administration decision which is considered as a civil action, shall extend the competence of State Administration Judicature.

Key Word : State Administrative Decision; Civil Action; Characteristic of Public and Private Law; Dispute matter and the settlement body.