



Judicial Challenges in Resolving Electronic Licensing Disputes before Indonesian Administrative Courts

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ABSTRACT

This study examines the judicial challenges in resolving electronic licensing disputes arising from Decision No. 30/G/2023/PTUN.BL and Appellate Decision No. 6/B/2024/PT.TUN.PLG, where two business licenses were issued for the same object through the OSS RBA system by the DPMPSTP of Pesawaran Regency. Using a normative juridical method supplemented with empirical data from judicial interviews, the study reveals contrasting judicial approaches. The first-instance court emphasized social harmony and familial relationships, adopting a utilitarian perspective and suggesting non-adversarial settlement rather than determining the legal validity of the licenses. In contrast, the appellate court adhered to a positivist approach, focusing on procedural rigor and identifying the dual licensing as the result of an administrative validation error, as the second permit was issued without revoking the first. The study highlights that the digitalization of licensing does not automatically ensure legal certainty; rather, it introduces new challenges in judicial reasoning, evidentiary evaluation, and institutional accountability. The findings underscore the necessity of strengthening technical regulations, enhancing the administrative competence of licensing authorities, and improving administrative remedies to ensure effective judicial review within Indonesia's digital governance framework.

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1. Introduction

Business licensing serves as a central regulatory tool through which governments exert control, oversight, and legal validation over economic activities. In contemporary administrative governance, digital transformation has become crucial to ensuring efficiency,

transparency, and accessibility in public service delivery.¹ Many jurisdictions worldwide have transitioned from traditional licensing models to electronic and risk-based systems, aimed at reducing bureaucratic complexity and fostering investment.² Indonesia is following this global trend by modernizing its licensing infrastructure, developing electronically integrated systems designed to expedite decision-making and enhance regulatory certainty within administrative practices.³ Beyond the Indonesian context, similar transformations in countries such as Singapore,⁴ Estonia,⁵ and selected European jurisdictions illustrate that the migration toward digital licensing is closely intertwined with broader global debates on administrative legality, technological reliability, and judicial adaptability in digital governance.⁶ This shift, however, also brings forth a host of challenges related to administrative legality, technological reliability, and judicial adaptability in handling disputes. These challenges are particularly evident in Indonesia, where the judicial system must navigate the complexities of resolving electronic licensing disputes within the context of evolving digital governance frameworks.

In Indonesia, the transformation of licensing administration is primarily embodied in the Online Single Submission Risk-Based Approach (OSS RBA), which derives its normative foundation from Government Regulation No. 5 of 2021,⁷ as part of the implementation framework for the Job Creation Law.⁸ The system aims to streamline procedures by shifting licensing issuance from manual bureaucratic processes to a digital platform based on risk categorization. This reform is expected to drive economic growth, reduce administrative burdens, and enhance regulatory consistency across various levels of

¹ L Oliveira et al., "Framework for the evaluation of digital transformation projects in the public administration," *Electronic Government* 22, no. 1 (2026): 49–73, <https://doi.org/10.1504/EG.2026.150201>.

² V Torichnyi et al., "Innovative Approaches to Strategic Management in the Public Sector: Challenges of Global Transformations and Digital Technologies," *Revista de Cercetare si Interventie Sociala* 90 (2025): 107–27, <https://doi.org/10.33788/rcis.90.7>.

³ A Mustofa, E Haryati, dan S Ismail, "THE IMPACT OF DIGITAL TRANSFORMATION ON PUBLIC SERVICES GOVERNANCE: A QUALITY ASSESSMENT SCALE APPROACH IN URBAN MUNICIPALITIES," *Journal of Governance and Regulation* 14, no. 4 (2025): 156–65, <https://doi.org/10.22495/jgrv14i4art15>.

⁴ J Erh, "Singapore's Digital Transformation Journey," *Journal of Southeast Asian Economies* 40, no. 1 (2023): 4–31, <https://doi.org/10.1355/ae40-1b>.

⁵ V I Espinosa dan A Pino, "E-government, inclusive growth, and the legitimacy of capitalism: lessons from estonia," *Journal of Economic Behavior and Organization* 238 (2025), <https://doi.org/10.1016/j.jebo.2025.107248>.

⁶ "14th International Conference on Electronic Government and the Information Systems Perspective, EGOVIS 2025," *Lecture Notes in Computer Science* 16049 LNCS (2026), <https://www.scopus.com/inward/record.uri?eid=2-s2.0-105017376979&partnerID=40&md5=35ffea68ed05351aac858055ccd00323>.

⁷ S A P Rahayu dan R F Kusumaningtyas, "Implications of existence online single submission risk-based approach for foreign investors," in *AIP Conference Proceedings*, vol. 2573, 2022, <https://doi.org/10.1063/5.0104101>.

⁸ Republik Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang," 2023.

government authority.⁹ However, despite its progressive design, the implementation of OSS RBA has faced several challenges, particularly regarding data reliability, institutional coordination, and governance integrity.

In practice, several administrative challenges have arisen from the digital licensing system. Technical disruptions, inconsistencies in verification, and overlapping administrative authorities have at times led to contradictory licensing outcomes.¹⁰ These issues not only undermine administrative performance but also carry significant legal implications, particularly when conflicting or duplicate licenses are issued for the same entity or applicant. Such situations disrupt regulatory clarity, create uncertainty for business stakeholders, and may ultimately necessitate judicial intervention to restore legal order and administrative accountability within the licensing framework.

An illustrative example can be found in Decision No. 30/G/2023/PTUN.BL, adjudicated by the Bandar Lampung Administrative Court, which involved the issuance of two electronic business licenses for the same entity through the OSS RBA system by the Regional Investment and One-Stop Integrated Service Office (DPMPTSP) of Pesawaran Regency.¹¹ The existence of dual licenses created significant uncertainty regarding the validity and enforceability of the administrative decisions. Although the court declared the lawsuit inadmissible, the case was appealed to the Palembang High Administrative Court (Decision No. 6/B/2024/PT.TUN.PLG),¹² which reassessed the administrative procedures and reviewed the judicial considerations omitted at first instance, offering a critical judicial perspective for understanding the contradictions inherent in electronic licensing governance.

Existing scholarship has explored various aspects of Indonesia's electronic licensing system. Devita et al. (2024) highlight ongoing coordination challenges between central and regional authorities, while Helmi (2023) emphasizes interpretative ambiguities in the regulatory instruments governing regional licensing jurisdiction. Hidayatullah et al. (2025) further identify verification weaknesses at the regional level, which may lead to duplicate licensing outcomes. However, these studies predominantly focus on administrative, institutional, and policy implementation perspectives. Little attention has been given to examining how electronic licensing disputes are interpreted, adjudicated, and resolved within judicial processes, particularly in terms of how administrative courts conceptualize

⁹ F F Busroh et al., "Digital Transformation with the Impact of AI in Government Decision Making," *Journal of Law and Legal Reform* 6, no. 4 (2025): 1839–74, <https://doi.org/10.15294/jllr.v6i4.30339>.

¹⁰ R Rusmini et al., "Rethinking e-government failure: a readiness-based assessment of Indonesia's digitalization efforts," *Cogent Social Sciences* 11, no. 1 (2025), <https://doi.org/10.1080/23311886.2025.2559867>; A A Sihombing dan H R D Putranti, "THE PARADOX OF SMART CITY GOVERNANCE: DIGITAL YOUTH, PUBLIC SPACES AND GOVERNANCE CHALLENGES IN INDONESIA," *Theoretical and Empirical Researches in Urban Management* 20, no. 3 (2025): 21–40, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-105013341119&partnerID=40&md5=162ab0f6ffc7094560921f2f6d957892>.

¹¹ "Decision No. 30/G/2023/PTUN.BL," *Direktori Putusan Mahkamah Agung Republik Indonesia*, 2023.

¹² "Decision No. 6/B/2024/PT.TUN.PLG," *Direktori Putusan Mahkamah Agung Republik Indonesia*, 2024.

legality, authority, and accountability in digital licensing disputes. This highlights a significant research gap in the judicial dimension of electronic licensing governance.

Existing scholarship has explored various aspects of Indonesia's electronic licensing system. Devita et al. (2024) highlight ongoing coordination challenges between central and regional authorities,¹³ while Sitti Aminah (2021) identifies key barriers in Indonesia's e-government transition, including regulatory gaps, lack of data integration, and disparities in ICT infrastructure across regions.¹⁴ Hidayatullah et al. (2025) further pinpoint verification weaknesses at the regional level, which may lead to duplicate licensing outcomes.¹⁵ However, these studies predominantly focus on administrative, institutional, and policy implementation perspectives. Little attention has been given to how electronic licensing disputes are interpreted, adjudicated, and resolved within judicial processes, particularly concerning how administrative courts conceptualize legality, authority, evidentiary reliability, and accountability in digital licensing conflicts. This highlights a significant research gap within the judicial dimension of electronic licensing governance, which also aligns with broader international discussions on how courts adapt to digitalized administrative decision-making.

Against this backdrop, this study aims to analyze the judicial challenges faced by the Indonesian Administrative Courts in resolving electronic licensing disputes, with particular emphasis on judicial reasoning, evidentiary assessment, and the interpretation of administrative legality in cases involving dual licensing phenomena under the OSS RBA system. Accordingly, this research addresses three core questions: (1) How do Indonesian Administrative Courts conceptualize legality and administrative accountability in electronic licensing disputes? (2) What judicial challenges arise in the assessment of electronic administrative evidence and procedural validity? and (3) How do judicial decisions reshape doctrinal understandings of administrative legality within digital governance contexts? By integrating doctrinal legal analysis, case study examination, and judicial insights, this study contributes to administrative law scholarship by extending doctrinal debates into the underexplored judicial dimension of digital licensing governance, advancing theoretical discussions on legality and evidentiary standards in e-government disputes, and offering policy-relevant insights to strengthen legal certainty, administrative justice, and institutional reliability within Indonesia's electronic licensing regime.

¹³ Rina Gusma Devita, Kesi Widjajanti, dan Paulus Wardoyo, "Strategi peningkatan layanan perizinan melalui online single submission risk-based approach (oss rba) di Jawa Tengah," *Jurnal Riset Ekonomi dan Bisnis* 17, no. 1 (2024): 12–23.

¹⁴ S Aminah dan H Saksono, "Digital transformation of the government: A case study in Indonesia," *Jurnal Komunikasi: Malaysian Journal of Communication* 37, no. 2 (2021): 272–88, <https://doi.org/10.17576/JKMJC-2021-3702-17>.

¹⁵ Bramaputera Tori Hidayatullah et al., "OSS RBA dan Problem Keadilan Agraria dalam Analisis Terhadap Sistem Perizinan Digital pada Pertambangan di Indonesia Review," *Jurnal Penelitian dan Pengkajian Ilmiah* 2, no. 6 (2025): 960–70.

2. Legal Materials and Method

This study adopts a normative juridical approach to examine the applicable positive law, legal principles, and statutory regulations governing the distribution of authority among state institutions in the issuance of electronic business licenses. Through this approach, the research seeks to gain a comprehensive understanding of the legal framework that regulates the relationship between the central and regional governments in the implementation of electronic licensing systems.

Additionally, a case-based approach is employed to analyze judicial reasoning in determining the validity of business licenses issued through electronic mechanisms. The research analyzes the First Instance Court Decision No. 30/G/2023/PTUN.BL and the Appellate Court Decision No. 6/B/2024/PT.TUN.PLG, identifying patterns of consistency, differences in legal orientation, and the judicial reasoning applied at both levels of the administrative courts. To enrich the doctrinal analysis, interviews were conducted with first-instance judges to further explore the legal considerations underlying these decisions.

All collected legal materials and empirical insights are analyzed using qualitative-descriptive analysis to interpret findings systematically and contextually. The methodological design of this research aims not only to contribute to the academic discourse on electronic licensing but also to provide practical guidance for governmental institutions in strengthening legal compliance and promoting the principles of good governance in the issuance of administrative licensing decisions.

3. Result and Discussion

3.1. The Dynamics of Licensing Administration and the Emergence of Dual Licensing under the OSS-RBA System

Business licensing in Indonesia is currently managed through a centralized electronic system, governed by Government Regulation No. 5 of 2021 on Risk-Based Business Licensing.¹⁶ This regulation forms the legal basis for the Online Single Submission Risk-Based Approach (OSS RBA), a system designed to integrate licensing processes across various administrative authorities and streamline procedural stages.¹⁷ Complemented by Government Regulation No. 6 of 2021 on Regional Licensing Administration, the OSS RBA framework preserves a vital role for regional authorities, particularly the Regional Investment and One-Stop Integrated Service Offices (DPMPTSP).¹⁸ These institutions are

¹⁶ Budi Fatchullah, Muchamad Ja'abik Ispriyarso dan Nabitatus Sa'adah, "PELAKSANAAN PROSEDUR PERIZINAN LINGKUNGAN BERDASARKAN PP NO.5 TAHUN 2021 TENTANG PENYELENGGARAAN PERIZINAN BERUSAHA BERBASIS RISIKO BESERTA HAMBATAN PELAKSANAANNYA," *DIPONEGORO LAW JOURNAL* 11, no. 5 (2022), <https://doi.org/https://doi.org/10.14710/dlj.2022.33599>.

¹⁷ Rahayu dan Kusumaningtyas, "Implications of existence online single submission risk-based approach for foreign investors."

¹⁸ Oktafian Abrianto, Samuel Dharma, dan Putra Nainggolan, "KEBAHARUAN PERIZINAN BERUSAHA BERDASARKAN UU NOMOR 6 TAHUN 2023 TENTANG PENETAPAN PERPU NOMOR 2 TAHUN 2022 TENTANG CIPTA KERJA," *Al-Amwal: Journal of Islamic Economic Law* 8, no. 2 (2023): 57–71, <https://doi.org/https://doi.org/10.24256/alw.v8i2.4159>.

responsible for verifying the substantive eligibility of applicants, validating supporting documents, and ensuring compliance with sectoral and spatial regulations before issuing licenses.¹⁹ Thus, while OSS RBA centralizes submission and digital processing, the administrative validity and legal reliability of electronic licenses remain heavily dependent on human-based verification and institutional diligence at the regional level.

The competency for issuing licenses is divided between provincial and district/city DPMPTSP offices based on the distribution of governmental authority. Provincial DPMPTSP institutions are tasked with licenses that involve cross-regional implications or strategic economic functions, whereas district/city DPMPTSP offices are responsible for licenses whose scope is confined to their local jurisdiction.²⁰ In this structure, OSS RBA functions as the primary digital gateway, but it does not eliminate the need for thorough, substantive evaluation. When verification and validation processes are carried out inaccurately or incompletely, the risk of administrative errors arises, including the issuance of duplicate or conflicting licenses.²¹ This illustrates a fundamental tension between the digital efficiency promised by automated systems and the ongoing dependence on procedural accuracy, institutional coordination, and administrative prudence.

This institutional vulnerability is exemplified in the case study explored in this research. The dispute began when Herdiansyah applied for a business license via OSS RBA for a coastal tourism site located in Dusun Mutun, Sukajaya Lempasing Village, Teluk Pandan District, Pesawaran Regency.²² After document verification and validation by the Pesawaran DPMPTSP, the first electronic business license was issued and registered as valid and active. Subsequently, Evi Safitri Herdiansyah's sibling submitted a second licensing application for the same location through the OSS RBA platform. Ideally, the system should have flagged the existence of an active license and initiated a substantive review to ensure that no previous license was already attached to the same business object. Instead, the application was processed as an independent submission, ultimately resulting in the issuance of a second valid electronic license for the same site.

The issuance of two active and formally valid licenses for a single business object created a condition of dual licensing, revealing a critical breakdown in administrative verification mechanisms. From an administrative law perspective, this situation directly challenges core principles of legality and legal certainty (*rechtszekerheid*), undermines the hierarchical order of administrative decisions, and places stakeholders in a state of uncertainty regarding the enforceability, priority, and legitimacy of conflicting

¹⁹ Abrianto, Dharma, dan Nainggolan.

²⁰ Moh. Rizky A. Jumadil et al., "Kewenangan Pemerintah Daerah Dalam Penyelenggaraan Perizinan Berusaha," *Jurnal Yustisiabel* 7, no. 1 (2023): 128–41.

²¹ A Wicaksono et al., "Actor collaboration in the implementation of business licensing integrated with the land use framework: Indonesian case study," *Urban Governance*, 2025, <https://doi.org/10.1016/j.ugj.2025.10.003>.

²² "Decision No. 30/G/2023/PTUN.BL."

administrative acts.²³ Conceptually, this phenomenon indicates not merely a technical system failure but also a structural governance problem in the relationship between digital platforms and institutional responsibility. It highlights the limitations of automated administrative processes when they are not adequately supported by robust verification protocols and sufficient institutional checks.

Efforts to resolve the conflict through internal administrative channels were unsuccessful. Although Herdiansyah submitted an objection letter to DPMPTSP, the response indicated an institutional reluctance to process the complaint, dismissing it as misaddressed and leaving the issue unresolved. This administrative inertia exposes weaknesses in the complaint-handling mechanisms within the digital licensing system and reveals an institutional unwillingness or inability to address internal administrative inconsistencies. Consequently, the dispute was escalated to judicial proceedings before the Administrative Court, marking a transition from an internal administrative malfunction to formal judicial scrutiny.

This case exemplifies a broader governance dilemma within Indonesia's digital licensing regime. Technological modernization has not automatically ensured procedural accuracy, institutional accountability, or substantive legal certainty. On the contrary, the system remains vulnerable to administrative negligence, fragmented institutional coordination, and procedural inconsistencies. As a result, the Administrative Court assumes an increasingly pivotal role, not only as a venue for dispute resolution but also as a normative stabilizer that bridges the gap between regulatory design and on-the-ground implementation in the era of digital governance.²⁴ Through its judicial reasoning and evidentiary evaluation, the court has the potential to shape doctrinal understandings of legality in electronic administrative decisions, clarify institutional accountability, and reinforce the integrity of Indonesia's digital licensing infrastructure.

3.2. Judicial Analysis of First-Instance and Appellate Considerations in OSS RBA Licensing Disputes

The judicial decisions rendered at both the first-instance and appellate levels represent distinct institutional functions and interpretative orientations, each reflecting different conceptions of how administrative justice should be applied within the context of electronically administered licensing systems such as the OSS RBA. While the first-instance court adopted a pragmatically conciliatory stance focused on social harmony, the appellate court embraced a more legality-centered and doctrinally structured approach, aimed at reinforcing administrative certainty and institutional accountability.

3.2.1. Judicial Reasoning of the First-Instance Court

In Decision No. 30/G/2023/PTUN.BL, the Administrative Court of Bandar Lampung examined a dispute arising from the issuance of two business licenses for the same object

²³ A Saputro dan R Salman, "Legal and Moral Principles as Guidelines for Carrying Out Official Duties," *Yuridika* 39, no. 2 (2024): 127–52, <https://doi.org/10.20473/ydk.v39i2.50496>.

²⁴ David Pasaribu, Irene Cristna Silalahi, dan Selviana Purba, "Cumulation of Lawsuits Between Administrative Decisions and Factual Actions in Administrative Court Decisions," *Jurnal Hukum dan Peradilan* 14, no. 2 (2025): 459–94.

via the OSS RBA platform.²⁵ In its deliberations, the panel of judges gave considerable weight to the familial relationship between the disputing parties and the socio-relational implications of the conflict, rather than focusing on determining which of the two licenses held superior procedural legitimacy. The court framed the dispute primarily as an internal familial matter that could, in its view, be resolved through non-judicial communication mechanisms rather than formal legal adjudication.²⁶

The court noted that both the plaintiff, Herdiansyah, and the intervening party, Evi Safitri, were siblings involved in business operations at the same location. Based on this, the court suggested that the conflict over land use and licensing could ideally be addressed through intra-family negotiation.²⁷ This reasoning reflects a utilitarian orientation, prioritizing social harmony and conflict avoidance over the clear articulation of legal certainty.²⁸

Moreover, the court did not view the issuance of dual licenses by the Regional Investment and One-Stop Integrated Services Office (DPMPTSP) of Pesawaran Regency as a fatal procedural violation. The institution was deemed to have processed both applications according to the administrative mechanisms prescribed by the OSS RBA system. As a result, the court found no compelling legal grounds to invalidate either license, leading to the rejection of the plaintiff's claim.

This first-instance judgment reveals a judicial tendency to prioritize socially beneficial outcomes and pragmatic conflict resolution, rather than reinforcing the normative hierarchy of legality within electronic administrative decision-making. While this approach may promote social harmony, it failed to resolve the central legal uncertainty caused by the issuance of dual licenses, thus compelling the plaintiff to pursue appellate review.

3.2.2. Judicial Reasoning of the Appellate Court

On appeal, the High Administrative Court of Palembang reoriented the dispute toward its core legal substance: the procedural validity of dual licensing and the institutional responsibility of the issuing authority.²⁹ The appellate court, exercising its powers under Article 122 of Law No. 5 of 1986 as amended by Law No. 9 of 2004 and Law No. 51 of 2009, reassessed both the factual elements and legal determinations made by the first-instance court.

The appellate court clarified that the dispute was not merely a matter of familial relationships but fundamentally concerned the legality of administrative actions that led to the issuance of two licenses for the same business object by the same authority. Referring to Government Regulation No. 5 of 2021 on Risk-Based Business Licensing and Government

²⁵ Administrative Court of Bandar Lampung, *Decision No. 30/G/2023/PTUN.BL*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

²⁶ Personal interview with a Judge of the Administrative Court, Bandar Lampung, November 16, 2025

²⁷ Personal interview with a Judge of the Administrative Court, Bandar Lampung, November 16, 2025

²⁸ Administrative Court of Bandar Lampung, *Decision No. 30/G/2023/PTUN.BL*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

²⁹ High Administrative Court of Palembang, *Decision No. 6/B/2024/PT.TUN.PLG*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

Regulation No. 6 of 2021 on Regional Business Licensing Implementation, the court emphasized a crucial administrative principle: each business object must correspond to one valid license, and the issuance of any subsequent license is permissible only after the revocation or legal invalidation of the prior one.³⁰

The appellate judges identified a significant procedural defect in the issuance of the second license. Evidence indicated that the DPMPTSP had processed the application from Evi Safitri without first verifying the existence of the prior license issued to Herdiansyah. This failure to conduct proper verification violated the principle of administrative accuracy and resulted in an impermissible dual licensing situation, which the court classified as maladministration.³¹

In addition, the appellate court rejected the first-instance court's reliance on familial harmony as a guiding judicial principle. While acknowledging the potential value of social considerations, the appellate court underscored that such factors cannot supersede the foundational principle of legal certainty, a core tenet of administrative law.³² The court emphasized that judges cannot abdicate their duty to uphold the law simply because the parties involved share familial ties. Once procedural illegality is established, judicial intervention is necessary to restore administrative order.³³

As a result, the appellate court affirmed the validity of the first license issued to Herdiansyah and annulled the second license granted to Evi Safitri. The court further imposed litigation costs on the respondent. This decision not only rectified the administrative error of dual licensing but also reaffirmed the institutional obligation of DPMPTSP to ensure thorough verification prior to issuing electronic business licenses.

Doctrinally, the appellate decision represents a significant recalibration of judicial oversight within the digital licensing framework. It reinforces the integrity of Indonesia's electronic governance system by reasserting the supremacy of legality, ensuring that administrative discretion does not overshadow the foundational principles of legal certainty and institutional responsibility. The appellate court's ruling strengthens judicial oversight as a normative safeguard within the architecture of electronic governance.

3.3. The Application of Utilitarianism and Legal Positivism in Administrative Court Judgments

The application of utilitarianism and legal positivism in disputes arising from the OSS RBA licensing regime reveals a distinct divergence in judicial orientation between the

³⁰ High Administrative Court of Palembang, *Decision No. 6/B/2024/PT.TUN.PLG*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

³¹ Pasaribu, Silalahi, dan Purba, "Cumulation of Lawsuits Between Administrative Decisions and Factual Actions in Administrative Court Decisions."

³² High Administrative Court of Palembang, *Decision No. 6/B/2024/PT.TUN.PLG*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

³³ Zaharuddin Sani et al., "Implications of the Limits for Filing a Lawsuit to the State Administrative Court: Upholding Legal Certainty or Injuring Human Rights?," *Indonesian State Law Review* 6, no. 1 (2023): 1–22.

first-instance and appellate courts. These philosophical frameworks serve as crucial analytical tools through which judges construct their reasoning, especially when addressing complex administrative conflicts such as the issuance of dual business licenses for the same object. In these cases, each court assigns different normative weight to principles of utility, legal certainty, and formal legality in determining the validity of administrative acts. This section provides an analytical foundation for understanding the judicial reasoning embedded in the decisions of both the Bandar Lampung Administrative Court and the Palembang High Administrative Court.

3.3.1. Utilitarianism as the Basis of First-Instance Judicial Reasoning

Utilitarianism, principally developed by Jeremy Bentham, posits that a legal decision is justified when it produces the greatest benefit for the greatest number.³⁴ This approach places social utility at the core of legal judgment, emerging from Bentham's dissatisfaction with rigid, formalistic legal systems that failed to address broader social welfare. A legal norm, under this conception, is seen as beneficial insofar as it contributes to collective well-being and minimizes social harm.³⁵

In the context of the OSS RBA dispute, the Bandar Lampung Administrative Court's reasoning reflects utilitarian thought, as the court emphasized social utility rather than strict formal legality. The first-instance court acknowledged that the disputing parties were siblings, which led them to prioritize a resolution that preserved familial harmony, rather than focusing solely on determining which license held superior procedural legitimacy.³⁶ This reasoning aligns with utilitarian philosophy, which views law not merely as a normative mechanism but as a tool to minimize conflict and safeguard social stability.³⁷

Consequently, the court refrained from declaring either license legally defective and instead dismissed the claim on the grounds that the dispute could be resolved through non-adversarial, conciliatory means without causing significant administrative harm. The first-instance court's approach demonstrates a rejection of a rigid positivistic understanding of legality, instead considering the broader social consequences of a confrontational legal ruling. Invalidating one of the licenses could have exacerbated familial conflict, created social tensions, and caused broader social harm outweighing any immediate legal benefit.

³⁴ D J Sistyawan et al., "THE DEVELOPMENT OF POSITIVISM'S LEGAL THEORY: FROM BENTHAM TO HART," *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 2 (2024): 777–801, <https://doi.org/10.22373/petita.v9i1.402>.

³⁵ J E Crimmins, "Bentham and utilitarianism in the early nineteenth century," in *The Cambridge Companion to: Utilitarianism*, 2012, 38–60, <https://doi.org/10.1017/CCO9781139096737.003>.

³⁶ Administrative Court of Bandar Lampung, *Decision No. 30/G/2023/PTUN.BL*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

³⁷ Nurwidya Kusma Wardhani, Tulus M Lumban Gaol, dan Taufiqurrohman Syahuri, "Penerapan Konsep Teori Utilitarianisme Dalam Penegakan Hukum Di Indonesia," *JRP: Jurnal Relasi Publik* 3, no. 2 (2025): 67–74, <https://doi.org/https://doi.org/10.59581/jrp-widyakarya.v2i1.2165>.

By prioritizing social utility, the court sought to preserve relational stability, while encouraging a more humane and socially responsive approach to dispute resolution. The reasoning illustrates that utilitarianism enables judicial flexibility, allowing courts to interpret legal norms in ways that prevent unnecessary social harm and ensure that judicial outcomes genuinely promote social benefit.

3.3.2. Legal Positivism as the Basis of Appellate Court Reasoning

In contrast, legal positivism most notably associated with Hans Kelsen's theory of normative hierarchy asserts that the validity of administrative actions must be assessed strictly according to conformity with formal legal norms and procedures.³⁸ This framework prioritizes the principle of legality and rejects subjective, moral, or relational considerations in determining the validity of an administrative decision.³⁹

Guided by this perspective, the Palembang High Administrative Court reassessed the dispute through a distinctly positivistic lens. The appellate court emphasized that the issuance of two licenses for the same object violated legal certainty, particularly because the first license had never been formally revoked prior to the issuance of the second.⁴⁰ Under the regulatory framework governing regional business licensing specifically Government Regulation No. 6 of 2021 a new license may only be issued after the revocation or legal invalidation of the previous license.⁴¹ By processing the second license without revoking the first, the administrative authority committed a procedural defect that rendered the second license legally invalid.

This assessment aligns with the positivist principle that the legitimacy of administrative action is determined exclusively by compliance with formal legal procedures, regardless of social or familial considerations. The appellate court rejected the first-instance court's emphasis on social utility, stressing that such considerations cannot override the foundational principle of legal certainty, which is essential to the functioning of administrative law. Once procedural illegality was established, judicial intervention became necessary to restore administrative order.

In its ruling, the appellate court affirmed the validity of the first license issued to Herdiansyah while annulling the second license granted to Evi Safitri.⁴² The court further imposed litigation costs on the respondent. This decision not only corrected the

³⁸ Ian McLeod, "Kelsen's Hierarchy of Norms BT - Legal Theory," ed. oleh Ian McLeod (London: Macmillan Education UK, 1999), 68–83, https://doi.org/10.1007/978-1-349-14269-9_5.

³⁹ K Čufar, "Pure theory's deconstruction," *European Journal of Legal Studies* 13, no. 1 (2021): 155–86, <https://doi.org/10.2924/EJLS.2019.044>.

⁴⁰ High Administrative Court of Palembang, *Decision No. 6/B/2024/PT.TUN.PLG*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

⁴¹ Republik Indonesia, "Government Regulation No. 6 of 2021 on the Implementation of Business Licensing in the Regions (Peraturan Pemerintah Nomor 6 Tahun 2021 Tentang Penyelenggaraan Perizinan Berusaha di Daerah)" (2021).

⁴² High Administrative Court of Palembang, *Decision No. 6/B/2024/PT.TUN.PLG*, Supreme Court of Indonesia Decision Directory, accessed 16 November 2025

administrative error of dual licensing but also reaffirmed the institutional obligation of DPMPTSP to conduct thorough verification prior to issuing electronic business licenses.

From a doctrinal perspective, the appellate decision represents a crucial recalibration of judicial oversight. By reaffirming the primacy of legality, the appellate court strengthened the integrity of Indonesia's digital licensing framework and ensured that administrative discretion did not override the principles of legal certainty and institutional accountability. This ruling underscores the centrality of legal positivism in the administration of public law, especially in the context of digital governance.

3.4. Examining the Challenges Faced by Administrative Court Judges in Resolving Electronic Licensing Disputes

Judges of the Indonesian Administrative Court face significant challenges in adjudicating disputes arising from the issuance of dual OSS RBA-based electronic business licenses, particularly when these licenses have been validated by the Regional Investment and One-Stop Integrated Services Office (DPMPTSP) of Pesawaran Regency. Judicial assessment of digital licensing documents must encompass not only issues of legality but also questions of authenticity, validity, and institutional competence.⁴³ A comprehensive understanding of the OSS RBA integration framework is therefore essential for judges to safeguard legal certainty and administrative validity in every decision rendered.

Although the OSS RBA system is legally grounded, its products must still withstand judicial scrutiny. The existing normative framework governing electronic evidence in administrative adjudication is somewhat underdeveloped, leading to challenges in determining the authenticity and legal weight of digital documents. While Law No. 11 of 2008 on Electronic Information and Transactions provides a general basis for recognizing electronic evidence, there is a lack of detailed technical guidance within the administrative judiciary.⁴⁴ As a result, judges often rely on rational judicial conviction and prudence to ensure that their rulings remain consistent with the principle of legality, while also ensuring legal certainty for the parties involved.⁴⁵

Another challenge lies in balancing the application of positive law with the pursuit of substantive justice. Many regulatory instruments governing licensing have not fully adapted to digital transformation, requiring judges to engage in progressive interpretation interpreting old legal norms in light of new technological realities and evolving governance

⁴³ Wicaksono et al., "Actor collaboration in the implementation of business licensing integrated with the land use framework: Indonesian case study."

⁴⁴ Pratama Herry Herlambang, Yos Johan Utama, dan Aju Putrijanti, "Harmonisasi Hukum UU Peratun dan UU ITE dalam Ketentuan Alat Bukti Elektronik sebagai Alat Bukti Tambahan dalam Sistem Peradilan Tata Usaha Negara," *Jurnal Pembangunan Hukum Indonesia* 6, no. 1 (2024): 61–81.

⁴⁵ Indonesia, Government Regulation No. 6 of 2021 on the Implementation of Business Licensing in the Regions (Peraturan Pemerintah Nomor 6 Tahun 2021 Tentang Penyelenggaraan Perizinan Berusaha di Daerah).

structures.⁴⁶ In the present dispute, the court did not merely evaluate compliance with written norms but also considered social welfare and fairness.⁴⁷ Interviews with the presiding judges reveal that beyond questions of administrative competence, the case also involved sensitive family dynamics between the disputing parties.⁴⁸ In such circumstances, the court sought to prioritize social harmony, fairness, and utility, aiming to produce a decision that not only resolved formal legal issues but also mitigated prolonged social conflict.

A further institutional challenge arises from the insufficient administrative responsiveness of government authorities, particularly DPMPTSP, which often treats administrative remedies such as objections and appeals under Law No. 30 of 2014 on Government Administration merely as procedural formalities. This results in the judiciary being used as a final “dumping ground” for all administrative disputes. Under the principle of *contrarius actus*, the issuing authority bears both the competence and responsibility to revoke defective administrative decisions.⁴⁹ Strengthening internal administrative remedies is therefore critical to prevent judicial overburdening and to reinforce the accountability of administrative institutions.

The judges also emphasized the importance of encouraging non-litigation settlement mechanisms, particularly deliberative approaches (*doelmatigheid*), which prioritize consensus-based resolution.⁵⁰ These approaches align with Indonesian socio-cultural values that emphasize balance, harmony, and communal agreement,⁵¹ making them particularly suitable for resolving disputes under the OSS RBA system. Non-judicial settlement is often more efficient, less costly, and less disruptive to economic activities, while also fostering governmental moral accountability for administrative outputs.

Reform efforts must be accompanied by capacity enhancement within DPMPTSP, particularly through technical training, strengthening doctrinal understanding of modern administrative law principles, and improving risk-mitigation mechanisms. Even with regulatory refinement, administrative errors may still arise; thus, internal administrative dispute-resolution mechanisms must not merely exist as procedural symbols but must function effectively as substantive problem-solving forums.

⁴⁶ Herlambang, Utama, dan Putrijanti, “Harmonisasi Hukum UU Peratun dan UU ITE dalam Ketentuan Alat Bukti Elektronik sebagai Alat Bukti Tambahan dalam Sistem Peradilan Tata Usaha Negara.”

⁴⁷ Valencia Prasetyo Ningrum dan Yuliya Safitri, “Sistem Pembuktian Elektronik pada Hukum Acara Peradilan Tata Usaha Negara,” *COMSERVA : Jurnal Penelitian dan Pengabdian Masyarakat* 2, no. 08 (2022): 1357–67.

⁴⁸ Personal interview with a Judge of the Administrative Court (PTUN) Bandar Lampung, 21 May 2022.

⁴⁹ Lintang Ario Pambudi et al., “The *Contrarius Actus* Principle : Legal Challenges and Prospects for Reform in Executing Administrative Court Decisions,” *Journal of Law and* 6, no. 2 (2025): 783–812.

⁵⁰ H Abdul Khair, “Penyelesaian Sengketa Keputusan Tata Usaha Negara Melalui Upaya Banding Administratif,” *Jatiswara* 31, no. 3 (2016), <https://doi.org/https://doi.org/10.29303/jtsw.v31i3.59>.

⁵¹ Personal interview with a Judge of the Administrative Court (PTUN) Bandar Lampung, 21 May 2025.

This case also illustrates procedural and logistical challenges in administrative litigation. One of the intervening parties resided abroad (in the Netherlands), complicating the service of court summons.⁵² Judges were compelled to conduct on-site verification at Mutun Beach tourist area, Pesawaran Regency, to authenticate factual circumstances. Proceedings had to be restarted when documents written in Dutch were later submitted, ensuring procedural fairness and protection of party rights.⁵³ These circumstances illustrate the need for judicial adaptability, activism, and professionalism in upholding the principle of simple, fast, and low-cost justice as mandated by Law No. 48 of 2009 on Judicial Power.⁵⁴

These challenges underscore the increasingly strategic yet complex role of administrative judges in the era of digital licensing. At the first-instance level, the judicial approach was primarily oriented toward preserving social harmony, given that the disputing parties were siblings. The court rejected the lawsuit not because administrative irregularities were absent, but because it viewed the conflict as still resolvable through non-adversarial means. Dual licensing was therefore not treated as an immediate confrontation that required a rigid declaratory ruling, as long as the parties could manage their interests constructively.⁵⁵

From an Islamic constitutional administrative perspective (*siyāsah dustūriyyah*), administrative dispute resolution must prioritize public welfare (*maslahah ‘ammah*) and avoid harm (*mafsadah*).⁵⁶ Dual licensing reflects administrative disorder (*fasad al-idarah*) with potential negative implications for society.⁵⁷ Within this framework, judges also carry a *ḥisbah* function: ensuring compliance with administrative norms while preventing social harm.⁵⁸ Thus, judicial responsibility extends beyond formal legality to ensuring that administrative governance does not generate uncertainty detrimental to public interest.

The appellate court, however, adopted a stricter legality-oriented perspective. It emphasized that dual licensing threatens administrative order and legal certainty, particularly given that the second license was issued without revoking the first. Only licenses fulfilling formal procedural legality were deemed valid. This demonstrates that appellate adjudication

⁵² Personal interview with a Judge of the Administrative Court (PTUN) Bandar Lampung, 21 May 2025.

⁵³ Personal interview with a Judge of the Administrative Court (PTUN) Bandar Lampung, 21 May 2025.

⁵⁴ See Article 2 paragraph (4), Law of the Republic of Indonesia No. 48 of 2009 on Judicial Power.

⁵⁵ Personal interview with a Judge of the Administrative Court (PTUN) Bandar Lampung, 21 May 2025.

⁵⁶ Akhmad Kamil Rizani dan Ahmad Dakhoir, “MUSYAWARAH SEBAGAI ALTERNATIF PENYELESAIAN SENGKETA WARIS BEDA AGAMA: EVIDENCE BASED SOLUTION FROM INDONESIA,” *El-Mashlahah* 10, no. 2 (2020): 52–64, <https://doi.org/10.23971/maslahah.v10i2.2063>.

⁵⁷ Ahmad Suhaimi, “Implementasi Prinsip Al-Maslahah dalam Pelayanan Publik Berbasis Digital di Nganjuk : Perspektif Fiqh Siyāsah,” *Islamic Law: Jurnal Siyāsah* 10, no. 2 (2025): 215–32.

⁵⁸ M R M Zawawi et al., “Rethinking Hisbah and Sharia Proceduralism: A Comparative Approach to Justice in Contemporary Islamic Law,” *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 234–68, <https://doi.org/10.32332/milrev.v4i1.10391>.

prioritizes legal certainty and administrative order over relational considerations, thereby reinforcing procedural discipline.

Ultimately, the divergence between utilitarian reasoning at the first-instance level and legal positivism at the appellate level demonstrates that administrative adjudication does not operate within a single philosophical paradigm. While utilitarianism enables judicial responsiveness to social harmony, positivism safeguards legal certainty through procedural coherence and normative consistency. These contrasting perspectives confirm that judicial outcomes in administrative law are shaped not merely by textual interpretation of regulations but by the theoretical frameworks judges employ in evaluating legality and utility. Nonetheless, legal certainty remains the ultimate foundation, as reflected in the appellate decision affirming a single lawful license and ensuring clarity within Indonesia's administrative licensing regime.

4. Conclusion

The conflict arising from dual licensing in Decision No. 30/G/2023/PTUN.BL illustrates the persistent challenges faced by Indonesia's digital licensing system under the OSS RBA framework, particularly at the regional administrative level. Despite the promise of digital transformation, the case reveals ongoing risks of administrative errors in the validation and compliance of digital licensing documents. Judicial challenges remain in balancing the principles of social utility and legal certainty, requiring courts to adopt adaptive roles both at the first-instance and appellate levels to ensure justice and administrative order. The divergent judicial reasoning between the first-instance court, which emphasized social harmony, and the appellate court, which prioritized strict procedural legality, highlights the tension between utilitarianism and legal positivism in administrative adjudication. This underscores the need for a balanced approach in judicial decision-making, where legal certainty remains the cornerstone of administrative governance. To mitigate the recurrence of dual licensing and enhance legal clarity, it is essential to strengthen the governance of electronic licensing within DPMPTSP, particularly through improved validation mechanisms, enhanced technical competence among officials, and clear accountability structures within the OSS RBA framework. These reforms will not only prevent administrative malfunctions but also ensure a more accountable, efficient, and legally sound digital licensing system, aligning Indonesia's digital governance with the principles of good governance and the rule of law.

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