Jurnal Legalitas
Volume 19 Issue 2, 2026
P-ISSN: 1979-5955, E-ISSN: 2746-6094
Faculty of Law, Universitas Negeri Gorontalo
This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License.

Ideal Regulatory Model for Forming Presidential Regulation on Fictitious Positive Decisions after Job Creation Law

Muhammad Iqbal Mustapa[1], Zamroni Abdussamad[2], Erman I. Rahim[3]

[1] *Master of Law Program, Pascasarjana Universitas Negeri Gorontalo, Indonesia. E-mail: iqbalmustapa@ung.ac.id*
[2] *Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: zamroni@ung.ac.id*
[3] *Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: erman@ung.ac.id*

Article Info

Article History
Received: Sep 30, 2026;
Reviewed: Ok 17, 2026;
Accepted: Nov 4, 2026.

Keywords:

Fictitious Positive Decisions; Administrative Silence; Legal Certainty.

Corresponding Author:
Name : Muhammad Iqbal Mustapa
Email : iqbalmustapa@ung.ac.id

How to cite *[Chicago Manual of Style 18th edition (Notes and Bibliography System]:*
Muhammad Iqbal Mustapa, Zamroni Abdussamad and Erman I. Rahim "Ideal Regulatory Model for Forming Presidential Regulation on Fictitious Positive Decisions after Job Creation Law" *Jurnal Legalitas* 19, No. 2 (2026): 253–271.

DOI :
10.33756/jelta.v17i1.41794

Abstract

This study examines the normative construction of fictitious positive decisions following the enactment of Law Number 6 of 2023 on Job Creation and proposes an ideal regulatory model for the mandated Presidential Regulation. The Job Creation Law fundamentally altered the fictitious positive mechanism by shortening the response period, abolishing judicial resolution through the State Administrative Court, and delegating essential regulatory details to a Presidential Regulation. However, the absence of this regulation has created a legal vacuum, producing a dualistic landscape in which administrative silence may be construed either as approval under the Government Administration Law or as rejection under the State Administrative Court Law. This ambiguity undermines legal certainty and the protection of citizens' rights. Employing normative legal research with statutory, conceptual, and comparative approaches, this study analyzes the deficiencies of the current framework and formulates a comprehensive model for the Presidential Regulation. The proposed model addresses six critical dimensions: the form and legal status of fictitious positive decisions; a confirmation procedure for applicants; robust oversight by the Ombudsman and internal supervisory bodies; residual judicial protection; progressive digitalization through the Online Single Submission system; and periodic evaluation. The study concludes that enacting the Presidential Regulation is not merely a statutory obligation but a constitutional imperative to reconcile the legislative choice to administrativize fictitious positive resolution with the principles of legal certainty, access to justice, and protection against administrative inaction. The model offers a coherent framework for restoring legitimacy and effectiveness to a mechanism currently rendered ineffective by prolonged regulatory inaction.

1. Introduction

The paradigm shift in Indonesian administrative law following the Reformasi era was marked by the adoption of the *fictitious positive* doctrine as an instrument of legal protection against the silence or inaction of governmental bodies or officials. This doctrine was explicitly introduced through Article 53 of Law Number 30 of 2014 on Government Administration (Undang-Undang Administrasi Pemerintahan, hereinafter UUAP), which stipulates that if a governmental body or official fails to issue a decision and/or perform an action within the prescribed time limit, the application shall be deemed granted by law.

This normative construction is the inverse of the *fictitious negative* principle embraced by Law Number 5 of 1986 on the State Administrative Court (Peradilan Tata Usaha Negara), under which official silence is construed as a rejection. The adoption of the fictitious positive doctrine in UUAP was intended to compel governmental responsiveness, prevent the disregard of citizen applications, and accelerate the realization of legal certainty in public services.[1]

The defining characteristic of the fictitious positive mechanism under UUAP lies in its *judicial* mode of resolution. Pursuant to Article 53 paragraphs (4) to (6) of UUAP, an applicant who receives no response from a governmental body or official must petition the State Administrative Court (Pengadilan Tata Usaha Negara, hereinafter PTUN) to order the official to issue the decision that is by law deemed granted. The court is required to adjudicate the petition within twenty-one working days, and the governmental body or official must execute the court's decision within five working days. Thus, within the UUAP framework, PTUN functions as an external supervisory organ ensuring that the applicant's right to a fictitious positive decision can be effectively enforced.[2]

However, this normative construction underwent a fundamental shift with the enactment of Law Number 11 of 2020 on Job Creation, which was subsequently enacted as Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (hereinafter the Job Creation Law). Article 175 point 6 of the Job Creation Law has fundamentally altered the mechanism for resolving fictitious positive applications.

The amendment encompasses three crucial aspects: *first*, the time limit for a governmental body or official to respond to an application is shortened to five working days after the application is received in full; *second*, the mechanism of petitioning PTUN to obtain a decision deemed granted by law is abolished; and *third*, further provisions regarding the form of stipulation of decisions and/or actions deemed granted by law are delegated to a Presidential Regulation.[3] This amendment implicitly reduces PTUN's authority to examine and adjudicate fictitious positive

[1] Zaka Firma Aditya and Sholahuddin Al-Fatih, "Redesign of Positive Fictitious Efforts After the Job Creation Law," *Jurnal Konstitusi* 20, no. 2 (June 2023): 340–57, https://doi.org/10.31078/jk2029.
[2] Ni Komang Ayu Arniti, Anak Agung Sagung Laksmi Dewi, and Luh Putu Suryani, "Penyelesaian Permohonan Fiktif Positif untuk Mendapatkan Keputusan di Pengadilan Tata Usaha Negara," *Jurnal Analogi Hukum* 1, no. 2 (2019): 265–70, https://doi.org/10.22225/ah.1.2.2019.265-270.
[3] M. Aschari and Francisca Romana Harjiyatni, "Kajian Tentang Kompetensi Absolut Peradilan Tata Usaha Negara Dalam Menyelesaikan Sengketa Keputusan Fiktif Positif," *Jurnal Kajian Hukum* 2, no. 1 (May 2017): 25–57.

applications and requires that such applications be resolved internally by the governmental body or official concerned.

he delegation of regulatory authority to a Presidential Regulation under Article 175 point (6) of Law Number 6 of 2023 is a direct consequence of the legislature's policy choice to transfer the resolution of fictitious positive applications from the judicial to the administrative domain. However, the Presidential Regulation mandated by that provision has not been promulgated to date. Article 185 of the Job Creation Law requires all implementing regulations to be issued within three months of enactment, yet no such regulation has materialised.

The continued absence of the Presidential Regulation is a matter of positive law, not merely doctrinal observation: independent academic assessments confirm that the regulation remains unenacted, and that this omission has produced a regulatory vacuum with direct consequences for legal certainty and access to legal protection. The vacuum has also generated litigation, including an unlawful governmental action claim against the President before the Jakarta State Administrative Court for failure to issue the mandated regulation. *At this point, the argument rests on verifiable primary facts the statutory command and its non-fulfilment rather than on a normative preference.*[4]

The legal consequences of this omission are layered and must be distinguished analytically. In positive law, Law Number 5 of 1986 on the State Administrative Court continues to maintain the fictitious negative principle under Article 3: administrative silence is construed as a rejection and is therefore justiciable before the PTUN. By contrast, Law Number 30 of 2014 on Government Administration, as amended by the Job Creation Law, retains the substantive principle of fictitious positive approval but abolishes the procedural mechanism through which such approval could be judicially declared and enforced. The resulting coexistence of two incompatible legal fictions is not an academic construct; it is a structural feature of the current statutory framework. Doctrinal analysis characterises this coexistence as a systemic defect that undermines legal certainty, precisely because the positive and negative models now operate without a clear hierarchy or priority of application.

The practical juridical question that follows what constitutes a valid and legally binding form of stipulation for a fictitious positive decision remains unanswered in positive law, because the only instrument capable of supplying that answer, the Presidential Regulation, has not been enacted. *The recommendation that such a regulation must define the form and legal force of fictitious positive decisions is therefore a normative proposal addressed to the legislature and the executive, not a description of existing law.*[5]

It is within this unresolved normative context that the Supreme Court issued Circular Letter Number 5 of 2021 and, subsequently, Circular Letter Number 2 of 2024. SEMA 5/2021 confirms that, following the Job Creation Law, fictitious positive applications are no longer within the jurisdiction of the PTUN. SEMA 2/2024 goes

---

[4] Muhammad Adiguna Bimasakti, "Penyelesaian Sengketa Di Ombudsman Dan Di Pengadilan Mengenai Ganti Kerugian Dalam Pelayanan Publik," *Jurnal Hukum Peratun* 2, no. 2 (2019): 213–34.
[5] Dewi Cahyandari, "The Good Governance Principle in Fictitious-Positive Case Applications After the Job Creation Law," *Yustisia* 12, no. 1 (April 2023): 77–93, https://doi.org/10.20961/yustisia.v12i1.63999.

further: it expressly reactivates the fictitious negative norm of Article 3 of the State Administrative Court Law, providing that administrative silence in the relevant administrative dispute is to be treated as a refusal to issue a decision rather than as a factual omission.

These circular letters are binding procedural guidance for the courts, but they are not statutory regulations and cannot substitute for the Presidential Regulation mandated by the Job Creation Law. Their effect is to restore a judicial avenue under the fictitious negative framework while leaving the fictitious positive mechanism without the regulatory infrastructure that the legislature itself deemed necessary. *Whether this judicial policy is normatively desirable, or whether it risks reversing a legislative choice without formal amendment, is a question of legal policy and constitutional doctrine; it is not resolved by the circular letters themselves.*

This Supreme Court policy can be understood as an effort to fill the legal vacuum and guarantee access to justice for citizens, although doctrinally it raises questions regarding its consistency with the spirit of legal protection that UUAP seeks to realize. The reactivation of fictitious negative through Supreme Court policy, on the one hand, reaffirms PTUN's function as a mechanism of judicial supervision over both administrative actions and omissions; on the other hand, however, this policy cannot replace the function of a Presidential Regulation as a legal instrument providing a normative foundation for the form and mechanism of stipulating fictitious positive decisions.[6]

Academic studies on the issue of fictitious positive decisions after the Job Creation Law have produced significant contributions but still leave analytical gaps. Existing research tends to focus on three main themes. *First*, studies analyzing the shift in PTUN's authority and its implications for the principle of *checks and balances* within the framework of separation of powers. *Second*, studies identifying the legal vacuum and legal uncertainty resulting from the absence of the Presidential Regulation, as well as offering harmonization of regulations among the Law on PTUN, UUAP, and the Job Creation Law. *Third*, studies evaluating the implications of the Supreme Court Circular Letters on the practice of state administrative courts and access to justice for the public. These three groups of studies have made valuable contributions in mapping the normative and practical issues arising from the policy change on fictitious positive decisions.[7]

However, a fundamental gap remains largely unexamined comprehensively: the absence of studies that specifically formulate an ideal regulatory model for the Presidential Regulation mandated by Article 175 point 6 of the Job Creation Law. Existing studies tend to stop at problem identification and recommendations for the immediate issuance of a Presidential Regulation, without providing substantive formulations on how such a Presidential Regulation should regulate the form of stipulation of fictitious positive decisions, verification and supervision mechanisms,

---

[6] Aan Efendi et al., "Administrative Silence in Indonesia: Negative or Positive Legal Fiction? Keheningan Administratif Di Indonesia: Fiktif Negatif Atau Fiktif Positif?," *Jurnal Konstitusi* 23, no. 2 (June 2026): 262–79, https://doi.org/10.31078/jk2323.

[7] Cynthia Hadita, "Reconstruction Of The Authority Of The State Administrative Court Regarding The Determination Of Applications Positive Fiction (Analysis Critical Post The Birth Constitution Number 6 of 2023 Concerning Determination Regulation Government Replacement Constitution Number 2 of 2022 Concerning Create Work)," *NOMOI Law Review* 5, no. 2 (November 2024): 175–85, https://doi.org/10.30596/nomoi.v5i2.21521.

time limits, and legal remedies available to applicants if the governmental body or official still fails to perform its obligations. In fact, without clear formulations regarding the form and mechanism for stipulating fictitious positive decisions, any Presidential Regulation issued risks becoming merely an administrative instrument that is ineffective in guaranteeing applicants' rights. It is this gap that the present study seeks to fill. [8]

Therefore, this study offers novelty by critically comparing existing scholarship and by formulating an ideal regulatory model for a Presidential Regulation on fictitious positive decisions. Previous studies have made important contributions but exhibit three limitations. First, studies on PTUN authority and checks and balances tend to be descriptive-analytical, identifying the shift from judicial to administrative resolution without designing an operational administrative substitute. Second, studies on the legal vacuum and regulatory harmonisation generally recommend the immediate enactment of a Presidential Regulation but do not specify its substantive content, confirmation mechanism, evidentiary status, or remedies. Third, studies on judicial practice and Supreme Court Circular Letters evaluate court responses without translating them into a coherent regulatory design; comparative references to the Netherlands and France remain sporadic and are not systematically adapted to Indonesian constitutional and institutional contexts. Consequently, the literature lacks a traceable prescriptive framework that reconciles the legislative choice to administrativise fictitious positive resolution with legal certainty and access to justice.

This study fills that gap through a conceptual and prescriptive contribution: a bifurcated administrative-judicial model that separates fictitious positive resolution resolved through internal governmental mechanisms, Ombudsman and APIP oversight, and digital OSS infrastructure from fictitious negative resolution, which remains within PTUN authority, while preserving residual judicial protection where an applicant's fictitious positive decision is refused recognition or implementation. Its genuinely new elements are: (i) the legal status of fictitious positive decisions as *beschikking* with binding evidentiary force; (ii) a mandatory written confirmation procedure adapted from French administrative law; (iii) explicit protection for affected third parties; (iv) algorithmic attribution and revocation rules for OSS-generated decisions; and (v) periodic evaluation.

The argument is grounded in statutory interpretation, normative conflict analysis, and comparative institutional design. Its added value is national moving beyond calls for enactment to an operational regulatory draft and international offering a middle-path model demonstrating that administrativising administrative silence need not eliminate judicial oversight. This study therefore answers two questions: how the normative construction of fictitious positive decisions after the Job Creation Law affects legal certainty, and what regulatory model can guarantee legal certainty, rights protection, and effective public services.

[8] John W. F. Allison, "Current Legal Fictions in Public Law," *Current Legal Problems* 77, no. 1 (November 2024): 413–44, https://doi.org/10.1093/clp/cuae013.

2. Method

This study employs normative legal research of a prescriptive nature. The statutory approach traces the hierarchy of norms from the 1945 Constitution through UUAP, the PTUN Law, and the Job Creation Law to implementing regulations and Supreme Court Circular Letters, mapping which provisions remain in force, have been amended, or rendered inoperative. [9]

The conceptual approach operationalises doctrinal categories *beschikking*, positive versus negative fiction, legal certainty, and checks and balances as analytical tools. The comparative approach selects the Netherlands and France on three criteria: codified general administrative law expressly regulating positive fiction, distinct institutional designs, and accessible doctrinal literature. Primary materials were selected for formal validity, direct relevance, authoritative status, and verifiability; secondary literature for peer review and direct engagement with the research questions.

Analysis combined grammatical, systematic, and teleological interpretation, normative conflict analysis (substance, competence, omission), and a three-step prescriptive formulation: identifying the regulatory gap, deriving design requirements from constitutional principles, and translating them into six components form and legal status, confirmation procedure, oversight, residual judicial protection, digitalisation, and periodic evaluation each traceable to a specific deficiency. Throughout, applicable positive law, doctrinal interpretation, and normative recommendation are kept distinct.

3. Analysis or Discussion

3.1. The Normative Construction of Fictitious Positive Decisions after the Job Creation Law and Its Implications for Legal Certainty

The enactment of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (hereinafter the Job Creation Law) has fundamentally reconfigured the normative architecture of fictitious positive decisions in Indonesian administrative law. Article 175 point 6 of the Job Creation Law introduced three pivotal amendments to the fictitious positive regime previously established under Article 53 of Law Number 30 of 2014 on Government Administration (Undang-Undang Administrasi Pemerintahan, hereinafter UUAP).

First, the time limit for a governmental body or official to respond to an application was reduced from ten to five working days. Second, the mechanism by which an applicant could petition the State Administrative Court (Pengadilan Tata Usaha Negara, hereinafter PTUN) to obtain a declaration that the application was deemed granted by law was abolished.[10] Third, further provisions concerning the form of stipulation of decisions and/or actions deemed granted by law were

[9] Aria Nur Akmal, Nur Maelasari, and Lusiana Lusiana, "Pemahaman Deep Learning Dalam Pendidikan: Analisis Literatur Melalui Metode Systematic Literature Review (SLR)," *JIIP-Jurnal Ilmiah Ilmu Pendidikan* 8, no. 3 (2025): 3229–36.

[10] Azza Azka Norra, "Pertentangan Norma Fiktif Negatif Dan Fiktif Positif Serta Kontekstualisasinya Menurut Undang-Undang Administrasi Pemerintahan," *Jurnal Hukum Peratun* 3, no. 2 (2020): 141–54.

delegated to a Presidential Regulation. These amendments collectively signify a deliberate policy shift from a judicial model of fictitious positive resolution to an administrative one.

The legislature's choice to eliminate judicial oversight reflects an intent to streamline bureaucratic responsiveness, yet it simultaneously raises profound questions regarding the constitutional principle of checks and balances and the effective protection of citizens' rights against administrative inaction. The shift is not merely technical but touches upon the fundamental nature of administrative justice: whether the protection of citizens against administrative silence should be entrusted to courts or to internal administrative mechanisms, and what consequences this choice entails for the rule of law.[11]

The most immediate and consequential implication of this normative shift is the legal vacuum created by the absence of the mandated Presidential Regulation. Article 185 of the Job Creation Law required all implementing regulations to be issued within three months of its enactment, yet the Presidential Regulation envisioned by Article 175 point 6 has not been promulgated to date. This regulatory omission has produced a dualistic and contradictory legal landscape. On the one hand, Law Number 5 of 1986 on the State Administrative Court continues to maintain the fictitious negative principle, under which administrative silence is construed as a rejection of the application and consequently subject to judicial challenge.[12]

On the other hand, the Government Administration Law, as amended by the Job Creation Law, retains the substantive principle of fictitious positive approval while abolishing the procedural mechanism through which such approval could be judicially declared and enforced. As Efendi et al. have observed, these two statutes regulate distinct subject matters, with the result that the positive legal-fiction model does not automatically revoke or supersede the negative legal-fiction model. Administrative silence may therefore be treated under either model, meaning that it may be deemed either a rejection or an approval of an application, depending on which statutory framework is applied. This coexistence of mutually incompatible legal fictions without a clear hierarchy or priority of application constitutes a systemic defect that undermines the very legal certainty the fictitious positive doctrine was designed to achieve.[13]

The dualism is not merely an academic concern; it has concrete consequences for litigants, administrative officials, and judges, who must navigate a fragmented normative landscape without clear guidance. The absence of a Presidential Regulation thus transforms what was intended to be a coherent reform into a source of confusion and inconsistency.

The Supreme Court's response to this normative impasse, through Supreme Court Circular Letter Number 5 of 2021 and subsequently Supreme Court Circular

---

[11] Allison, "Current Legal Fictions in Public Law."
[12] Regy Pamungkas, Tri Mulyani, and Amri Panahatan Sihotang, "Perluasan Kompetensi Ptun Pasca Berlakunya Undang-Undang Cipta Kerja," *Semarang Law Review (SLR)* 5, no. 2 (October 2024): 104–22, https://doi.org/10.26623/slr.v5i2.10089.
[13] Muhammad Yusril Izzal Fahmi, "Implikasi yuridis pasal 175 poin 7 undang-undang nomor 6 tahun 2023 terhadap kewenangan PTUN memutus permohonan fiktif positif" (undergraduate, Universitas Islam Negeri Maulana Malik Ibrahim, 2023), http://etheses.uin-malang.ac.id/53423/.

Letter Number 2 of 2024, has further complicated the legal landscape. The 2024 Circular Letter explicitly reactivated the fictitious negative norm of Article 3 of the Law on the State Administrative Court, affirming that administrative silence may be regarded as a rejection of an application. While this judicial policy may be understood as a pragmatic effort to fill the legal vacuum and preserve access to justice for citizens, it raises serious doctrinal questions. As has been correctly noted, Supreme Court Circular Letters and Supreme Court Regulations do not occupy a position within the hierarchy of legislative regulations; they constitute merely procedural guidelines for the administration of justice.[14]

Consequently, the reactivation of fictitious negative through a Circular Letter cannot serve as a legitimate substitute for the Presidential Regulation mandated by the Job Creation Law. The Circular Letter may provide temporary procedural guidance to the courts, but it does not resolve the underlying normative deficiency: the absence of a statutory instrument that defines the form, mechanism, and legal consequences of a fictitious positive decision under the amended administrative law framework.

Moreover, the Circular Letter's reactivation of fictitious negative effectively reverses the legislative policy choice embedded in UUAP without a formal legislative amendment, thereby raising questions about the separation of powers and the proper role of the judiciary in shaping administrative law. The Circular Letter may be seen as an act of judicial lawmaking that fills a gap, but it also risks perpetuating the very uncertainty it seeks to mitigate by creating a parallel regime that lacks democratic legitimacy and systematic coherence.[15]

The practical consequences of this regulatory uncertainty are particularly acute in the context of business licensing, where the fictitious positive mechanism was intended to function as a safeguard against bureaucratic delay. The Online Single Submission (OSS) system has operationalized the fictitious positive principle by automatically granting permits when no decision is issued within the prescribed time limit. However, the legal status of such automatically generated permits remains ambiguous in the absence of a Presidential Regulation that specifies their form, evidentiary value, and enforceability.

Furthermore, as Bimasaki has cautioned, the elimination of PTUN's authority over fictitious positive applications, coupled with the delegation of regulatory authority to a Presidential Regulation, signals a fundamental reorientation of the mechanism toward an administrative model reminiscent of the OSS system. While this model may enhance efficiency, it also concentrates discretionary power within the executive branch and reduces the availability of external judicial oversight. This concentration of power, as Pamungkas et al. have argued, risks contravening the principle of checks and balances and may enable arbitrary administrative conduct.[16]

---

[14] Muhtar Said and Erfandi Erfandi, "Tafsir Hakim Judex Facti Dan Judex Juris Terkait Batas Maksimal Upaya Administratif," *Progresif: Jurnal Hukum* 17, no. 1 (2023): 1–23.

[15] Nunik Nurhayati et al., "Legal Certainty of The Positive Fictive Policy In Business Licensing Through The Online Single Submission Risk-Based Approach System In Indonesia," *Jurnal Ius Constituendum* 10, no. 2 (June 2025): 224–41, https://doi.org/10.26623/jic.v10i2.12009.

[16] Arina Manasikana Fauziah, "Authorities of Village Heads in Removing and/or Transitioning Letter c Perspectives Siyasah Dusturiyah (Study of Article 26 of Law Number 6 of 2014 Concerning Villages)" (undergraduate, Universitas Islam Negeri Maulana Malik Ibrahim, 2023), http://etheses.uin-malang.ac.id/51652/.

The legal certainty that the fictitious positive doctrine was intended to provide thus remains unrealized, replaced instead by a regime of normative ambiguity that disadvantages precisely those citizens and businesses the doctrine was designed to protect. The implications extend beyond individual applicants to the broader investment climate, as uncertainty regarding the legal status of permits may deter investment and undermine Indonesia's competitiveness. The absence of a clear regulatory framework also creates opportunities for administrative abuse, as officials may exploit the ambiguity to delay or deny applications without accountability.

Beyond these practical concerns, the normative shift raises profound theoretical questions about the nature of administrative silence and the role of law in regulating it. The fictitious positive doctrine is premised on the idea that administrative silence should not be permitted to frustrate the rights of citizens, and that the law must provide a mechanism for deeming applications granted when officials fail to act.[17] By transferring this mechanism from the courts to the executive, the Job Creation Law has fundamentally altered the institutional balance that underpins administrative justice. The executive now bears primary responsibility for ensuring compliance with the fictitious positive principle, but it lacks the external oversight that courts provide.[18]

This shift reflects a broader trend in Indonesian administrative law toward deregulation and efficiency, but it also risks sacrificing legal certainty and accountability in the pursuit of speed. The experience of other jurisdictions suggests that administrative models of fictitious positive decisions can be effective when accompanied by robust internal controls, independent oversight, and clear legal standards. The absence of such safeguards in Indonesia's current framework exacerbates the risks associated with the administrative model.

The normative construction of fictitious positive decisions after the Job Creation Law is characterized by a fundamental tension between the legislative intent to administrativize the mechanism and the unresolved legal vacuum created by the absence of the mandated Presidential Regulation. This tension has produced a dualistic legal landscape, contradictory judicial policies, and practical uncertainty that undermines legal certainty and the protection of citizens' rights. The Supreme Court's reactivation of fictitious negative through Circular Letters, while pragmatic, cannot substitute for a comprehensive regulatory framework.[19]

The practical consequences for business licensing and investment are significant, and the theoretical implications for administrative justice are profound. The enactment of the Presidential Regulation is therefore not merely a statutory obligation but a constitutional imperative, for it is the means by which the legislature's choice to administrativize fictitious positive resolution can be reconciled with the constitutional principles of legal certainty, access to justice, and

[17] Kartika Widya Utama, "Surat Keputusan Tata Usaha Negara Yang Bersifat Fiktif Positif," *Notarius* 8, no. 2 (2015): 141–251, https://doi.org/10.14710/nts.v8i2.10259.
[18] Enrico Simanjuntak, "Perkara Fiktif Positif Dan Permasalahan Hukumnya," *Jurnal Hukum Dan Peradilan* 6, no. 3 (November 2017): 379–98, https://doi.org/10.25216/jhp.6.3.2017.379-398.
[19] Enrico Simanjuntak, "Prospek Prinsip Fiktif Positif Dalam Menunjang Kemudahan Berusaha Di Indonesia," *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional* 7, no. 2 (August 2018): 301–20, https://doi.org/10.33331/rechtsvinding.v7i2.250.

the protection of citizens' rights against administrative inaction. Until such a regulation is enacted, the fictitious positive doctrine remains a promise unfulfilled, and the legal certainty it was designed to provide remains elusive.

3.1.1 The Hierarchical Basis and Limits of the Delegated Presidential Regulation

The foundational premise for enacting the Presidential Regulation mandated by Article 175 point (6) of Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation (hereinafter the Job Creation Law) is firmly rooted in the constitutional and statutory hierarchy of Indonesian legislation. As explicitly stipulated in Article 7(1) of Law Number 12 of 2011 on the Formation of Legislation (*Pembentukan Peraturan Perundang-undangan*), the Presidential Regulation occupies the fifth tier in the normative hierarchy. It is positioned strictly beneath the 1945 Constitution, the People's Consultative Assembly Resolution (*Ketetapan MPR*), the Law (*Undang-Undang*) or Government Regulation in Lieu of Law (*Perppu*), and the Government Regulation (*Peraturan Pemerintah*).

This hierarchical placement dictates that the material substance of a Presidential Regulation is inherently confined to two distinct categories: matters explicitly commanded by a higher-ranking Law for further administrative regulation, and matters necessary to exercise executive governmental authority.[20] The delegated regulation in the present context unequivocally falls within the first category, functioning not as a manifestation of independent executive prerogative, but as a sub-delegated instrument designed to operationalize a specific, pre-existing legislative directive.

Consequently, Article 175 point (6) of the Job Creation Law does not merely permit the issuance of a Presidential Regulation; it explicitly commands it. The legislature has, therefore, imposed a constitutional and statutory obligation upon the President to exercise bound authority (*gebonden bevoegdheid*) rather than free discretion (*freies ermessen*) in formulating this regulation.

This statutory mandate imposes three critical limitations on the regulatory scope.[21] First, the Presidential Regulation cannot expand, restrict, or alter the substantive right to a fictitious positive decision, as this substantive right is fundamentally created and delineated by the Law itself. Any attempt to add new requirements or alter the statutory timeline of five working days would constitute an illegal infringement upon the legislature's domain. Second, the regulation is strictly prohibited from reintroducing the judicial application procedure to the State Administrative Court (PTUN) for fictitious positive declarations. The abolition of this mechanism constitutes a deliberate and explicit legislative policy choice to shift

[20] Haryadi Haryadi, Muhammad Syafei, and Muhammad Rafi Darajati, "Reform Types of Legislation Regulations in Indonesia: Reformulasi Jenis Peraturan Perundang-Undangan Di Indonesia," *Journal of Constitutional Law Society* 1, no. 2 (September 2022): 217–23, https://doi.org/10.36448/cls.v1i2.35.

[21] Adinda Putri Pertiwi, Adrian E. Rompis, and R. Adi Nurzaman, "The Elimination of State Administrative Court's Authority to Decide Positive Fictitious Decisions After the Amendment to Law Number 30 of 2014 Connected with the General Principles of Good Governance," *Jurnal Poros Hukum Padjadjaran* 5, no. 1 (November 2023): 107–24, https://doi.org/10.23920/jphp.v5i1.1390.

the paradigm from judicial to administrative resolution; thus, the executive cannot resurrect a procedure that the legislature has explicitly dismantled.

Third, it cannot displace or negate the residual jurisdiction of the PTUN over unlawful governmental action (*perbuatan melawan hukum oleh badan dan/atau pejabat pemerintahan*), which remains firmly grounded and protected under the State Administrative Court Law.[22] Any attempt by the executive to overstep these boundaries through the Presidential Regulation would constitute an *ultra vires* action, thereby invalidating the regulation and violating the principle of checks and balances.

Furthermore, the limits of this regulatory authority are firmly circumscribed by the paramount principle of normative hierarchy, encapsulated in the maxim *lex superior derogat legi inferiori*, which dictates that lower-ranking regulations must never conflict with higher-ranking norms. The Presidential Regulation must therefore be meticulously aligned with the Government Administration Law (*Undang-Undang Administrasi Pemerintahan*), the State Administrative Court Law, and the overarching constitutional principles of legal certainty (*rechtszekerheid*) and access to justice. In the current legal landscape, the regulation serves as a crucial bridge to resolve the existing normative dualism a precarious situation where administrative silence is simultaneously construed as an approval by the Government Administration Law and as a rejection by the State Administrative Court Law.

The Presidential Regulation must provide a clear, harmonized, and legally binding framework that genuinely respects the legislature's intent to administrativize fictitious positive resolutions while simultaneously preserving essential external judicial oversight. It must harmonize these competing norms without creating new legal ambiguities.[23]

The legal consequences of exceeding these statutory limits are profound and detrimental to the rule of law. A Presidential Regulation that fails to adhere to the parameters established by the Job Creation Law, or one that contradicts existing statutory provisions, would be highly vulnerable to judicial review before the Supreme Court (*Mahkamah Agung*) through the mechanism of material review (*hak uji materiil*). Such a finding of invalidity would not only nullify the regulation but would also perpetuate and exacerbate the very legal uncertainty it was designed to cure.[24]

Therefore, the formation of this Presidential Regulation demands rigorous doctrinal adherence to the hierarchy of norms, ensuring that the administrative mechanism for fictitious positive decisions is both constitutionally sound and operationally effective. It must serve as a legitimate extension of the legislative mandate, providing the requisite procedural certainty and institutional oversight

---

[22] Olivia Septi Rahayu et al., "Analisis Pertimbangan Hakim Dalam Menolak Suatu Gugatan Berdasarkan Kompetensi Relatif: (Studi Putusan Perkara Nomor 18/G/2018/PTUN.DPS)," *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 4, no. 1 (January 2026): 499–506, https://doi.org/10.61104/alz.v4i1.3094.

[23] Jimly Asshiddiqie, "Teori Hierarki Norma Hukum," *Jakarta: Konstitusi Press Bekerja Sama Dengan JSLG*, 2020.

[24] I. Gede Buonsu, A. A. Sagung Laksmi Dewi, and Luh Putu Suryani, "Keputusan Fiktif Sebagai Dasar Pengajuan Gugatan Sengketa Tata Usaha Negara," *Jurnal Preferensi Hukum* 2, no. 1 (March 2021): 68–72.

without encroaching upon the domain of higher-ranking legislation or the constitutional mandate of the judiciary. Ultimately, the regulation must reflect a delicate equilibrium between administrative efficiency and the constitutional guarantee of legal protection for citizens against governmental inaction.

3.2. The Ideal Regulatory Model for the Presidential Regulation on Fictitious Positive Decisions

The formulation of an ideal regulatory model for the Presidential Regulation mandated by Article 175 point (6) of the Job Creation Law must begin from the premise that the fictitious positive mechanism has shifted from a judicially mediated procedure to an administrative one whose effectiveness depends on internal governance structures. [25] However, this premise cannot be accepted without first resolving a prior doctrinal question: whether Article 3 of the State Administrative Court Law and Article 53 of the Government Administration Law, as amended by the Job Creation Law, are genuinely in conflict, and what the legal character of the Supreme Court Circular Letters is in relation to that conflict. The model proposed below is therefore derived from, and justified by, the doctrinal analysis in the following three paragraphs.[26]

The relationship between Article 3 of Law Number 5 of 1986 and Article 53 of Law Number 30 of 2014 cannot be reduced to a simple hierarchy problem. Article 3 provides that administrative silence in the failure to issue a required decision is treated as a State Administrative Decision (KTUN), which is the doctrinal basis of the fictitious negative model. Article 53, by contrast, provides that failure to act within the prescribed period results in the application being deemed granted by law, which is the basis of the fictitious positive model. Courts addressing this conflict have applied the principle *lex posterior derogat legi priori*, reasoning that Article 53, as the later enactment, displaced Article 3. Yet this judicial resolution is doctrinally contestable.

As Efendi et al. demonstrate, the two statutes regulate distinct subject matters: the PTUN Law governs judicial competence over administrative decisions, while the Government Administration Law governs the substantive obligations of administrative bodies. If the norms operate on different legal conditions, the later enactment does not automatically revoke the earlier one; instead, the two models may apply to different factual and procedural situations. The Job Creation Law sharpens the problem: it abolishes the judicial procedure in Article 53 paragraphs (4)-(6) without enacting the Presidential Regulation that would specify the administrative substitute. The result is neither a clean displacement nor a coherent coexistence, but an incomplete normative transition.[27]

The Supreme Court Circular Letters must be situated within this doctrinal structure rather than treated as a substitute for statutory regulation. SEMA is not a

---

[25] I Wayan Bela Siki Layang, "Kendala Dan Cara Hakim Peradilan Tata Usaha Negara Pasca UU Administrasi Pemerintahan: Suatu Pendekatan Atas Penanganan Perkara Fiktif Positif," *Jurnal Hukum & Pembangunan*, 2021.

[26] Mohammad Farouq Sulaiman, "Modifikasi Teknis Yudisial Dalam Penyelesaian Sengketa Keputusan Fiktif Positif Sebagai Implikasi Berlakunya OMNIBUSLAW Cipta Kerja," *Widya Yuridika* 8, no. 1 (March 2025): 177–94.

[27] Desy Wulandari, "Pengujian Keputusan Fiktif Positif Di Pengadilan Tata Usaha Negara," *Lex Renaissance* 5, no. 1 (November 2020): 32–56, https://doi.org/10.20885/JLR.vol5.iss1.art3.

regeling enacted through the formal legislative process; it is best characterised as a beleidsregel internal policy guidance addressed to judges and court apparatus, intended to ensure uniformity in judicial practice rather than to create generally binding legal norms. SEMA 5/2021 confirmed that, following the Job Creation Law, fictitious positive applications no longer fall within PTUN jurisdiction. SEMA 2/2024 went further: it expressly reactivated the fictitious negative norm of Article 3, providing that administrative silence in the relevant dispute is to be regarded as a refusal to issue a decision rather than a factual omission.

The doctrinal difficulty is that SEMA 2/2024 reverses a legislative policy choice the administrativisation of fictitious positive resolution without a statutory amendment and without the implementing regulation that the legislature itself deemed necessary. Moreover, the scope of SEMA 2/2024 remains contested: its express nomenclature is limited to the Minerba One Data Indonesia (MODI) context, leaving open whether it applies generally or only to that specific dispute. A model that relies on SEMA to resolve the normative uncertainty would therefore reproduce the very indeterminacy it seeks to cure.[28]

Three doctrinal conclusions follow, and each directly shapes the regulatory model. First, because the conflict between Article 3 and Article 53 has not been definitively resolved by statute, the Presidential Regulation cannot simply assume that fictitious positive approval is self-executing; it must define the form, evidentiary status, and legal force of a deemed-granted decision, otherwise the administrative mechanism lacks a *beschikking* character capable of producing legal effects. Second, because SEMA operates at the level of *beleidsregel* rather than *regeling*, the Presidential Regulation must supply the statutory infrastructure that SEMA cannot: confirmation procedures, oversight authority, and remedies. Third, because the PTUN's residual jurisdiction over unlawful governmental action remains intact, the model must preserve a judicial channel for cases where the administrative body refuses to recognise or implement a fictitious positive decision. These three conclusions constitute the normative foundation for the six components set out below. [29]

The Presidential Regulation should therefore not replicate the abolished judicial procedure nor restore the PTUN's authority over fictitious positive applications. Instead, it must establish a comprehensive administrative framework through three pillars: internal governmental mechanisms, external oversight by independent supervisory institutions, and robust digital infrastructure.

As Pasaribu proposes, an ideal mechanism must clearly separate positive and negative legal fictions: fictitious positive applications should be resolved through internal governmental mechanisms, oversight by the Ombudsman and the Government Internal Supervisory Apparatus, and supported by digitalisation, while fictitious negative remains within the PTUN's authority. This bifurcated approach is not merely a policy preference; it follows from the doctrinal finding that the two

[28] Farid Ramdani, "Keputusan Tata Usaha Negara Fiktif Berdasarkan Hukum Positif Di Indonesia," *Jurnal Cakrawala Hukum* 9, no. 2 (2018): 142–50.
[29] Arniti, Dewi, and Suryani, "Penyelesaian Permohonan Fiktif Positif untuk Mendapatkan Keputusan di Pengadilan Tata Usaha Negara."

fictions operate on distinct legal conditions and cannot be collapsed into a single institutional track.[30]

The comparative experience of the Netherlands and France is highly instructive, provided it is analyzed through the lens of transferability. In the Netherlands, the General Administrative Law Act (*Algemene wet bestuursrecht*) does not apply a general rule of positive fictitious decisions. It permits a positive fictitious decision only where a specific statutory provision expressly provides for it. For Indonesia, the transferable lesson is not the Dutch institutional design, but the principle of statutory specification: the Presidential Regulation must explicitly define the categories of decisions eligible for fictitious positive approval, removing arbitrary administrative discretion.

In France, Article L231-1 of the Code of Relations between the Public and the Administration dictates that administrative silence for two months constitutes a decision of acceptance, subject to the administration issuing a confirmation letter (*attestation*) within two weeks. The transferable lessons for Indonesia are threefold. First, the mandatory confirmation procedure is a viable safeguard against evidentiary uncertainty. Second, the published list of exceptions enhances transparency. Third, the third-party protection built into the French system is highly relevant to the Indonesian OSS context, where automated grants may affect competitors or local communities. Conversely, the French two-month period is not transferable, as the Indonesian legislature has explicitly chosen a five-working-day period. The comparative analysis thus supports a selective transplantation: adopting the Dutch statutory specification alongside the French procedural confirmation and third-party protection, tailored to Indonesia's unique statutory timetable.

The Presidential Regulation must therefore be structured around six interlocking components. Each component is derived from a specific deficiency identified in Section 3.1, and each is designed to operate within the constitutional and statutory limits of the Indonesian legal framework.

1. Component 1 Form and Legal Status of the Deemed-Granted Decision. The Regulation must explicitly define the fictitious positive decision as a *beschikking* (an individual administrative decision) with binding evidentiary force. It must specify that the decision arises by operation of law upon the expiry of the five-working-day period under Article 53 of the Government Administration Law, as amended. To ensure enforceability, the deciding administrative body must record the deemed decision in a written or electronic register. The legal consequence is that the applicant holds a legally binding instrument that can be relied upon as proof of the grant and enforced against the administrative body and third parties.
2. Component 2 Mandatory Written Confirmation Procedure. Drawing on the French administrative model, the Regulation must mandate the administrative body to issue a written confirmation (*attestation*) of the deemed grant within two weeks of the expiry of the response period. This confirmation must state the date the decision arose, the specific scope of the

[30] Ahmad Ahmad, "Konsep Fiktif Positif: Penerapannya Di Pengadilan Tata Usaha Negara," *Jurnal Hukum Replik* 5, no. 2 (September 2017): 141–56, https://doi.org/10.31000/jhr.v5i2.923.

grant, and the available legal remedies. Failure to issue this confirmation will not suspend the legal effect of the deemed decision; instead, it will trigger an automatic escalation to the internal supervisory body. This procedural safeguard mitigates evidentiary uncertainty and establishes a clear starting point for third-party challenges.

3. Component 3 Oversight by the Ombudsman and the Government Internal Supervisory Apparatus (APIP). The Regulation must designate the Ombudsman of the Republic of Indonesia as the external oversight body and the APIP as the internal supervisory apparatus. Administrative silence beyond the statutory period must be classified as maladministration. The Ombudsman must be empowered to issue binding recommendations for corrective action, while the APIP conducts periodic audits of compliance with the five-day period and reports directly to the President. The legal consequence of non-compliance is the imposition of administrative sanctions on the responsible official under the Government Administration Law.
4. Component 4 Residual Judicial Protection. Although the Job Creation Law abolishes the application procedure for a judicial declaration of fictitious positive approval, it does not extinguish the PTUN's residual jurisdiction over unlawful governmental action. The Regulation must expressly preserve the applicant's right to file an unlawful governmental action claim (*gugatan perbuatan melawan hukum oleh badan dan/atau pejabat pemerintahan*) if the administrative body refuses to recognize or implement the deemed decision. This ensures that the administrativisation of the fictitious positive mechanism does not eliminate external judicial oversight, thereby upholding the constitutional principle of checks and balances.
5. Component 5 Digitalisation through the OSS System. To ensure systemic efficiency, the Regulation must integrate the fictitious positive mechanism into the Online Single Submission (OSS) system. If an application submitted through the OSS system receives no response within the prescribed limit, the system must automatically generate an electronic decision bearing a verifiable digital signature. The Regulation must also establish strict algorithmic attribution and revocation rules, ensuring that an automatically generated decision is attributed to the competent official and can only be revoked through a reasoned administrative decision subject to the same procedural safeguards as an ordinary revocation.
6. Component 6 Periodic Evaluation. The Regulation must mandate a triennial evaluation by an independent body comprising representatives from the Ombudsman, APIP, and academic experts. This evaluation must assess key performance indicators, including average response times, the number of deemed grants issued, the number of revocations, and the frequency of residual judicial challenges. The findings must be published and submitted to the President. The legal consequence of a negative evaluation is that it serves as the formal legislative basis for the President to amend or replace the Regulation, ensuring that the mechanism remains responsive and evidence-based.

These six components constitute a coherent regulatory architecture. Component 1 supplies the legal status that the current framework lacks; Component 2 provides procedural certainty; Component 3 ensures accountability; Component 4 preserves the residual judicial guarantee; Component 5 establishes the digital infrastructure; and Component 6 creates a continuous feedback loop. Taken together, they reconcile the legislative choice to administrativise fictitious positive resolution with the constitutional principles of legal certainty, access to justice, and protection against administrative inaction.

4. Conclusion

This study demonstrates that the abolition of the judicial procedure under Article 53 paragraphs (4)–(6) of the Government Administration Law, without the mandated Presidential Regulation, has produced a structural defect in Indonesian administrative law. Article 3 of the PTUN Law and Article 53 of the Government Administration Law currently coexist without a clear hierarchy, leaving applicants without determinate legal protection. The theoretical contribution of this study lies in advancing a bifurcated administrative-judicial model that separates the resolution of fictitious positive applications from the fictitious negative regime. This model preserves the legislative choice to administrativise positive fiction while retaining residual judicial protection over unlawful governmental action.

Practically, this study provides an operational regulatory draft structured around six critical components: the *beschikking* status of deemed-granted decisions; a French-inspired confirmation procedure; Ombudsman and APIP oversight; residual PTUN jurisdiction; algorithmic attribution rules for OSS-generated decisions; and regulation-anchored periodic evaluation. These components are the minimum statutory infrastructure required to give effect to the constitutional mandate of legal certainty.

However, this study has limitations. It is doctrinal and comparative in scope. It does not provide an empirical assessment of how administrative bodies behave in the absence of the Regulation, nor does it measure the direct impact of the legal vacuum on investment outcomes. The comparative analysis is restricted to the Netherlands and France. Therefore, the proposed model should be read as a normative framework rather than an empirically validated prescription. Future research should examine the administrative practice of OSS-generated decisions, the litigation behavior of applicants under residual PTUN jurisdiction, and the political economy surrounding the delay in enacting the mandated Regulation.

Acknowledgments (Optional)

Recognize those who helped in the research, especially funding supporter of your research. Include individuals who have assisted you in your study: Advisors, Financial supporters, or may other supporter i.e. Proof-readers, Typists, and Suppliers who may have given materials.

References

Aditya, Zaka Firma, and Sholahuddin Al-Fatih. "Redesign of Positive Fictitious Efforts After the Job Creation Law." *Jurnal Konstitusi* 20, no. 2 (June 2023): 340–57. https://doi.org/10.31078/jk2029.

Ahmad, Ahmad. "Konsep Fiktif Positif: Penerapannya Di Pengadilan Tata Usaha Negara." *Jurnal Hukum Replik* 5, no. 2 (September 2017): 141–56. https://doi.org/10.31000/jhr.v5i2.923.

Akmal, Aria Nur, Nur Maelasari, and Lusiana Lusiana. "Pemahaman Deep Learning Dalam Pendidikan: Analisis Literatur Melalui Metode Systematic Literature Review (SLR)." *JIIP-Jurnal Ilmiah Ilmu Pendidikan* 8, no. 3 (2025): 3229–36.

Allison, John W. F. "Current Legal Fictions in Public Law." *Current Legal Problems* 77, no. 1 (November 2024): 413–44. https://doi.org/10.1093/clp/cuae013.

Arniti, Ni Komang Ayu, Anak Agung Sagung Laksmi Dewi, and Luh Putu Suryani. "Penyelesaian Permohonan Fiktif Positif untuk Mendapatkan Keputusan di Pengadilan Tata Usaha Negara." *Jurnal Analogi Hukum* 1, no. 2 (2019): 265–70. https://doi.org/10.22225/ah.1.2.2019.265-270.

Aschari, M., and Francisca Romana Harjiyatni. "Kajian Tentang Kompetensi Absolut Peradilan Tata Usaha Negara Dalam Menyelesaikan Sengketa Keputusan Fiktif Positif." *Jurnal Kajian Hukum* 2, no. 1 (May 2017): 25–57.

Asshiddiqie, Jimly. "Teori Hierarki Norma Hukum." *Jakarta: Konstitusi Press Bekerja Sama Dengan JSLG*, 2020.

Bimasakti, Muhammad Adiguna. "Penyelesaian Sengketa Di Ombudsman Dan Di Pengadilan Mengenai Ganti Kerugian Dalam Pelayanan Publik." *Jurnal Hukum Peratun* 2, no. 2 (2019): 213–34.

Buonsu, I. Gede, A. A. Sagung Laksmi Dewi, and Luh Putu Suryani. "Keputusan Fiktif Sebagai Dasar Pengajuan Gugatan Sengketa Tata Usaha Negara." *Jurnal Preferensi Hukum* 2, no. 1 (March 2021): 68–72.

Cahyandari, Dewi. "The Good Governance Principle in Fictitious-Positive Case Applications After the Job Creation Law." *Yustisia* 12, no. 1 (April 2023): 77–93. https://doi.org/10.20961/yustisia.v12i1.63999.

Efendi, Aan, Dyah Ochtorina Susanti, Ahmad Suhaimi, Suwardi Suwardi, and Lucky Dafira Nugroho. "Administrative Silence in Indonesia: Negative or Positive Legal Fiction? Keheningan Administratif Di Indonesia: Fiktif Negatif Atau Fiktif Positif?" *Jurnal Konstitusi* 23, no. 2 (June 2026): 262–79. https://doi.org/10.31078/jk2323.

Fahmi, Muhammad Yusril Izzal. "Implikasi yuridis pasal 175 poin 7 undang-undang nomor 6 tahun 2023 terhadap kewenangan PTUN memutus permohonan fiktif positif." Undergraduate, Universitas Islam Negeri Maulana Malik Ibrahim, 2023. http://etheses.uin-malang.ac.id/53423/.

Fauziah, Arina Manasikana. "Authorities of Village Heads in Removing and/or Transitioning Letter c Perspectives Siyasah Dusturiyah (Study of Article 26 of Law Number 6 of 2014 Concerning Villages)." Undergraduate, Universitas Islam Negeri Maulana Malik Ibrahim, 2023. http://etheses.uin-malang.ac.id/51652/.

Hadita, Cynthia. "RECONSTRUCTION OF THE AUTHORITY OF THE STATE ADMINISTRATIVE COURT REGARDING THE DETERMINATION OF

APPLICATIONS POSITIVE FICTION (Analysis Critical Post The Birth Constitution Number 6 of 2023 Concerning Determination Regulation Government Replacement Constitution Number 2 of 2022 Concerning Create Work)." *NOMOI Law Review* 5, no. 2 (November 2024): 175–85. https://doi.org/10.30596/nomoi.v5i2.21521.

Haryadi, Haryadi, Muhammad Syafei, and Muhammad Rafi Darajati. "Reform Types of Legislation Regulations in Indonesia: Reformulasi Jenis Peraturan Perundang-Undangan Di Indonesia." *Journal of Constitutional Law Society* 1, no. 2 (September 2022): 217–23. https://doi.org/10.36448/cls.v1i2.35.

Layang, I. Wayan Bela Siki. "Kendala Dan Cara Hakim Peradilan Tata Usaha Negara Pasca UU Administrasi Pemerintahan: Suatu Pendekatan Atas Penanganan Perkara Fiktif Positif." *Jurnal Hukum & Pembangunan*, 2021.

Norra, Azza Azka. "Pertentangan Norma Fiktif Negatif Dan Fiktif Positif Serta Kontekstualisasinya Menurut Undang-Undang Administrasi Pemerintahan." *Jurnal Hukum Peratun* 3, no. 2 (2020): 141–54.

Nurhayati, Nunik, Giftian Fajri Rustyono, Achmad Miftah Farid, and Rohmad Suryadi. "Legal Certainty of The Positive Fictive Policy In Business Licensing Through The Online Single Submission Risk-Based Approach System In Indonesia." *Jurnal Ius Constituendum* 10, no. 2 (June 2025): 224–41. https://doi.org/10.26623/jic.v10i2.12009.

Pamungkas, Regy, Tri Mulyani, and Amri Panahatan Sihotang. "Perluasan Kompetensi Ptun Pasca Berlakunya Undang-Undang Cipta Kerja." *Semarang Law Review (SLR)* 5, no. 2 (October 2024): 104–22. https://doi.org/10.26623/slr.v5i2.10089.

Pertiwi, Adinda Putri, Adrian E. Rompis, and R. Adi Nurzaman. "The Elimination of State Administrative Court's Authority to Decide Positive Fictitious Decisions After the Amendment to Law Number 30 of 2014 Connected with the General Principles of Good Governance." *Jurnal Poros Hukum Padjadjaran* 5, no. 1 (November 2023): 107–24. https://doi.org/10.23920/jphp.v5i1.1390.

Rahayu, Olivia Septi, Carissa Azzahra Setiyaputri, Indah Surya Lestari, and Chinta Amalia Tri Hapsari. "Analisis Pertimbangan Hakim Dalam Menolak Suatu Gugatan Berdasarkan Kompetensi Relatif: (Studi Putusan Perkara Nomor 18/G/2018/PTUN.DPS)." *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 4, no. 1 (January 2026): 499–506. https://doi.org/10.61104/alz.v4i1.3094.

Ramdani, Farid. "Keputusan Tata Usaha Negara Fiktif Berdasarkan Hukum Positif Di Indonesia." *Jurnal Cakrawala Hukum* 9, no. 2 (2018): 142–50.

Said, Muhtar, and Erfandi Erfandi. "Tafsir Hakim Judex Facti Dan Judex Juris Terkait Batas Maksimal Upaya Administratif." *Progresif: Jurnal Hukum* 17, no. 1 (2023): 1–23.

Simanjuntak, Enrico. "Perkara Fiktif Positif Dan Permasalahan Hukumnya." *Jurnal Hukum Dan Peradilan* 6, no. 3 (November 2017): 379–98. https://doi.org/10.25216/jhp.6.3.2017.379-398.

———. "Prospek Prinsip Fiktif Positif Dalam Menunjang Kemudahan Berusaha Di Indonesia." *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional* 7, no. 2 (August 2018): 301–20. https://doi.org/10.33331/rechtsvinding.v7i2.250.

Sulaiman, Mohammad Farouq. "Modifikasi Teknis Yudisial Dalam Penyelesaian Sengketa Keputusan Fiktif Positif Sebagai Implikasi Berlakunya OMNIBUSLAW Cipta Kerja." *Widya Yuridika* 8, no. 1 (March 2025): 177–94.

Utama, Kartika Widya. "Surat Keputusan Tata Usaha Negara Yang Bersifat Fiktif Positif." *Notarius* 8, no. 2 (2015): 141–251. https://doi.org/10.14710/nts.v8i2.10259.

Wulandari, Desy. "Pengujian Keputusan Fiktif Positif Di Pengadilan Tata Usaha Negara." *Lex Renaissance* 5, no. 1 (November 2020): 32–56. https://doi.org/10.20885/JLR.vol5.iss1.art3.

Conflict of Interest Statement: The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

Copyright: ©JELTA UNG. This is an open access article distributed under the terms of the Creative Commons Attribution-Non Commercial 4.0 International License, which permits copy and redistribute the material in any medium or format, remix, transform, and build upon the material, provided you must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use and you may not use the material for commercial purposes.

Jurnal Legalitas (J.Legalitas – JELTA) is an open access and peer-reviewed journal published by Faculty of Law, Universitas Negeri Gorontalo. The contents of the articles and advertisements published in the Jurnal Legalitas (JELTA) are sole and exclusive responsibility of their respective authors and advertisers.

Open Access