



The Legality of the Maluku Governor's Action in Mutating Doctors Between Hospitals

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Abstract

Introduction: There are often problems regarding the mutation of doctors between hospitals in the Maluku Province area carried out by the Governor of Maluku. The action of the Governor of Maluku to carry out the mutation caused a reaction of rejection from the mutated doctors and a number of mutation personnel and members of the Provincial Regional House of Representatives, because it was considered contrary to the provisions of laws and regulations.

Purposes of the Research: The purpose of this writing is to analyze the legality of the Maluku Governor's Action of Mutating Doctors Between Regional General Hospitals of Maluku Province, and the Legal Consequences if the Governor of Maluku's Action of Mutating Doctors Between Regional General Hospitals of Maluku Province Does Not Have Legality.

Methods of the Research: The research method in this writing is normative legal research. The approaches used in this study are the laws and regulations approach, the conceptual approach, and the case approach.

Results Main Findings of the Research: The results of the study show that the Governor of Maluku transfers doctors between hospitals without a basis for authority, because there is no delegation of authority from the President as the holder of the highest power in the development of the State Civil Apparatus. This is evidenced by the absence of Government regulations or Presidential Regulations or Provincial Regulations that regulate the delegation of authority from the President to the Governor of Maluku for the mutation in question. Similarly, mutation is carried out through a mutation procedure for mutation planning for a minimum of 2 (two) years and a maximum of 5 (five) years. Mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, taking into account the needs of the organization, there should be no conflict of interest in the implementation of mutations. For this reason, the mutation of the Governor of Maluku to transfer doctors between hospitals is without authority, and not in accordance with procedures and substance so that it does not have legality, so it has legal consequences in question as invalid. The action of the Governor of Maluku is considered non-binding since it was established and all legal consequences that arise are considered to have never existed, because the mutation carried out by the Governor is null and void for the sake of the law.

Keywords: : Legality; Action; Governor; Doctor Mutation.

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INTRODUCTION

Government policies in arranging a good government bureaucracy in accordance with the rule of law will have an impact on the legality of the actions made and have an impact on the functional tasks of government activities carried out effectively and efficiently which will bring benefits to the welfare of all Indonesian people. The policy of structuring the bureaucracy of government institutions includes the mutation of Civil Servants. Mutation is the transfer of duties and/or locations in 1 (one) central agency, between central agencies, 1 (one) Regional Agency, between Regional Agencies, between Central Agencies and

Regional Agencies, and to representatives of the State of Indonesia abroad and at their own request as in Article 1 Number 2 of the Regulation of the State Civil Service Agency of the Republic of Indonesia Number 5 of 2019 concerning Procedures for the Implementation of Mutations.

Mutation is part of the management of the state civil apparatus. The existence of the State Civil Apparatus in the context of implementing the nation's ideals and realizing state goals as stated in the preamble to the Constitution of the Republic of Indonesia in 1945, as state apparatus working in government agencies.¹ Mutation must be carried out in accordance with the provisions of laws and regulations. The existence of laws and regulations as a legal instrument to give, regulate, limit, guarantee the rights of citizens, as well as as a tool to test the legality of actions or deeds carried out by the community, the government and state administrators.² All implementations carried out by the state through the government must be in accordance with and according to the channels that have been determined in advance by law.³

Mutation of the State Civil Apparatus includes the preparation and determination of needs, procurement, rank and position, career development, career patterns, promotions, mutations, performance appraisals, payrolls and benefits, awards, discipline, dismissal, pension guarantees and old-age guarantees, and protection. The implementation of Civil Servant mutation is part of the management of the State Civil Apparatus. Mutation of Civil Servants in one Central Agency or Regional Agency is carried out by the Personnel Supervisory Officer. The mutation of Civil Servants between districts/cities in one province is determined by the governor after obtaining the consideration of the head of the State Civil Service Agency. The mutation of Civil Servants between districts/cities, interprovinces, and between provinces is determined by the minister in charge of domestic government affairs after obtaining the consideration of the head of the State Civil Service Agency. The mutation of provincial/regency/city Civil Servants to the Central Agency or vice versa, is determined by the head of the State Civil Service Agency. The mutation of Civil Servants between Central Agencies is determined by the head of the State Civil Service Agency. Government agencies both at the central and regional levels carry out Civil Servant mutation planning in their respective agencies, as stipulated in Article 2 of the Regulation of the State Civil Service Agency of the Republic of Indonesia Number 5 of 2019 concerning Procedures for the Implementation of Mutation (State Gazette of the Republic of Indonesia Year 2019 Number 391, which stipulates that: 1) Government agencies breastfeed the planning of Civil Servant mutation in their environment: 2) Planning for Civil Servant mutation as intended in paragraph (1) needs to pay attention to the following aspects: a) Competence; b) Career pattern; c) Mapping of employees; d) Succession plan group (talent pool); e) Career transfer and development; f) Assessment of work performance/performance and work behavior; g) Organizational needs; and h) The nature of the technical or policy work depends on the classification of the position; 3) Mutation consists of: a) Mutation of Civil Servants in one Central Agency or Regional Agency; b) Mutation of Civil Servants between districts/cities in a province; c) Mutation of Civil Servants between districts/cities, interprovinces, and

¹ Nur Tanachi Mardan, Jemmy Jefry Pietersz, Yohanes Pattinasarany, Keabsahan Pemberhentian Tidak Dengan Hormat Bagi Pegawai Negeri Sipil yang Melakukan Tindak Pidana Korupsi, *Tatohi: Jurnal Ilmu Hukum*, 1 no 2 (2021), p. 146.

² Yohanes Pattinasarany, Keabsahan Surat Edaran Yang Muatan Materinya Bersifat Pengaturan Dan Sanksi, *Jurnal Saniri*, 3 no 1 (2022), p. 28

³ Hendrik Salmon, Eksistensi Peradilan Tata Usaha Negara Dalam Mewujudkan Suatu Pemerintahan Yang Baik, *Sasi*, 16 no 4 (2010), p. 16.

between provinces; d) Mutation of provincial/regency/city Civil Servants to central agencies or vice versa; e) Mutation of Civil Servants between central agencies; and f) Mutation to the representative of the Union Republic of Indonesia abroad; 4) Mutation is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years; 5) Mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of position, position classification and career pattern, by taking into account the needs of the organization; 6) Civil Servant Mutation is carried out by paying attention to the principle of prohibition of conflicts of interest; 7) In addition to mutation due to duties and/or location as intended in paragraph (3), Civil Servants may apply for mutation of duties and/or locations on their own ministry.

Based on the arrangements as mentioned, it shows that both agencies in the central and regional governments, including the Maluku provincial area, that will carry out the mutation of Civil Servants in their agencies must make a plan beforehand, by paying attention to Competencies, Career patterns, Employee mapping, Succession plan groups; Career transfer and development; Assessment of work performance/performance and work behavior; The needs of the organization and the nature of the technical or policy work depend on the classification of the position. This shows that government agencies, both central and regional, including the province of Maluku, cannot carry out the mutation of Civil Servants in the regions at will or at the will of the Personnel Supervisory Officer, but must be planned in advance by paying attention to the requirements as stipulated in the provisions of laws and regulations, one of which is the Regulation of the State Civil Service Agency Number 5 of 2019 as mentioned. The Procedural Aspect is an important process for the Government in taking actions related to the implementation of the Government,⁴ including procedural mutations.

One of the reasons for the mutation of Civil Servants by the central government and local governments is that the performance of civil servants is the performance of civil servants as public servants in government institutions, has not shown the expected level of service, especially by the people who are the target of their services. The low performance of these employees can be evidenced by the non-fulfillment of work targets both in terms of quality and quantity.⁵ Therefore, the mutation of Civil Servants is part of the transfer action in the management of Civil Servants in order to improve government bureaucratic services.

Article 3 of Government Regulation Number 17 of 2020 stipulates that: 1) The President as the holder of the highest power for the development of Civil Servants is authorized to determine the appointment, transfer, and dismissal of Civil Servants; 2) The President may delegate the authority to determine the appointment, transfer, and dismissal of Civil Servants to: a) ministers in ministries; b) leaders of institutions in non-ministerial government institutions; c) Secretary General in the Secretariat of State Institutions and Non-Structural Institutions; d) the governor of the province; and e) Regents/Mayors in districts/cities; 3) Exempt from the provisions as intended in paragraph (2), the appointment, transfer, and dismissal of key high-ranking officials, intermediate high-ranking officials, and key expertise functional officials; 4) The provisions as intended in paragraph (2) letter a include: a) Attorney General; and b) the Chief of the National Police of the Republic of Indonesia; 5) The provisions as intended in paragraph (2) b include: a)

⁴ Yohanes Pattinasarany, Kewenangan Pembatalan Peraturan Daerah, *Sasi*, 17 no. 4 (2011), p. 81.

⁵ Nurdin, dkk, Pengaruh Penempatan, Mutasi Dan Promosi Terhadap Prestasi Kerja Serta Dampaknya Terhadap Kinerja Pegawai Sekretariat Daerah Aceh, *Jurnal Manajemen Pascasarjana Universitas Syiah Kuala*, 4 no 2 (2015), p. 222.

Head of the State Intelligence Agency; and b) Other officials designated by the president; 6) The provisions as intended in paragraph (2) c include the Secretary of the Supreme Court; 7) Delegation of authority as intended in paragraph (2) may be withdrawn by the President in the event of: a) Violation of the principle of the merit system committed by the Personnel Supervisory Officer; or b) To increase the effectiveness of government administration.

Based on the provisions of Article 3 paragraph (2) letter d of Government Regulation Number 17 of 2020 as mentioned above, it shows that the President can delegate the authority to determine the Appointment, Transfer, and Dismissal of Civil Servants to the Governor. This shows that the President is the Personnel Supervisory Officer, or in other words the Personnel Supervisory Officer is the President. In accordance with the provisions of Article 3 paragraph (2) of Government Regulation Number 17 of 2020 it is emphasized that the President can delegate or hand over or delegate the authority as a Civil Service Supervisory Officer to one of them is to the Governor to determine the appointment, transfer, and dismissal of Civil Servants.

The word "may" in the provisions of Article 3 paragraph (2) indicates that the President is not obliged to delegate the authority in question. This means that the delegation of authority from the President as the Personnel Supervisory Officer to the Governor to determine the appointment, transfer and dismissal is highly dependent on the President. In other words, the Governor does not automatically act as a Personnel Supervisory Officer in mutating Civil Servants. Rather, there must be a delegation from the President. Delegation from the President greatly affects the authority of the Governor.

The Governor including the Governor of Maluku can act as a Personnel Supervisory Officer if a delegation has been made by the President, without delegation from the President to the Governor to act as a Personnel Supervisory Officer, so that the Governor including the Governor of Maluku cannot act as a Personnel Supervisory Officer to take action to determine the appointment, transfer and dismissal of Civil Servants including Doctors who have the status of Civil Servants.

The Governor, including the Governor of Maluku, can act as a Personnel Supervisory Officer to carry out various government actions in the field of personnel, including mutation as part of the transfer action if he has received a delegation from the President to act as a Personnel Supervisory Officer. Therefore, without a Delegation from the President to the Governor, including the Governor of Maluku, it is not possible to carry out the mutation of Civil Servants in the Province, including Doctors between hospitals. Mutation is part of the transfer that is the authority of the Personnel Supervisory Officer.

That ministers, heads of institutions in non-ministerial government institutions, heads of secretariats in state institutions and non-structural institutions, governors, and regents/mayors can make appointments, transfers, and dismissals, including mutations as part of the transfer of the State Civil Apparatus if they have received a delegation from the President as the holder of power in the development of State Civil Apparatus employees, in relation to the Mutation of Doctors between hospitals in Maluku Province by the Governor Maluku, raises the question, has the Governor of Maluku received a delegation from the President, or has the President given a delegation to the Governor of Maluku as a Personnel Supervisory Officer to act to carry out Mutation as part of the Transfer?

In 2022, the actions of the Governor of Maluku, through Decree Number 824.3/891 of 2022, concerning the Mutation of Civil Servants, have mutated dr. Isabela Huliselan, SP.

FK., on November 7, 2022, from the Maluku Provincial General Hospital dr. M. Haulussy Ambon was transferred to the Maluku Province Regional Special Hospital Road. Admiral Leo Wattimena, Negeri Lama Village - Ambon. Then through the Decision of the State Administrative Court Number 8/G/2023/PTUN. ABN on June 7, 2023, the person concerned was returned to his original place at the Maluku Provincial General Hospital dr. M. Haulussy Ambon.

The same action was also taken by the Governor of Maluku, through Decree Number 824.3/892 of 2022, concerning the Mutation of Civil Servants, on behalf of dr. Ingrid Sihasale, S.Ked., M.K.K., dated November 7, 2022 from the Regional General Hospital of Maluku Province dr. M. Haulussy Ambon was transferred to the Regional General Hospital dr. Ishak Umarella Tulehu, Central Maluku. Then through the Decision of the State Administrative Court Number 7/G/2023/PTUN. ABN on June 7, 2023, the person concerned was returned to his original place at the Maluku Provincial General Hospital dr. M. Haulussy Ambon.

Previously, also in 2021, the Governor of Maluku, without going through the applicable mutation provisions, had held a mutation of 4 (four) specialist doctors in accordance with Decree Number: 82.4/83 of 2021, who had served at the Regional General Hospital of Maluku Province dr. M. Haulussy Ambon, who was transferred to the Regional General Hospital of dr. Ishak Umarella Tulehu Central Maluku, namely Doctor Rodrigo Limon (Ear, Nose and Throat Specialist), Doctor Mulyati (Pulmonary Specialist), Doctor Charmila Tamtalahitu (Ophthalmology) and Doctor Chintia Pentury (Internal Medicine Specialist).

The action of the Governor of Maluku to carry out the mutation caused a reaction of rejection from the mutated doctors as well as a number of health workers and members of the Maluku Provincial House of Representatives. Based on the description in question, the problems that will be studied in this writing are (1) Does the Governor of Maluku's Action to Mutate Doctors Between Regional General Hospitals in Maluku Province Have Legality?. (2) What are the legal consequences if the Governor of Maluku's Action to Transfer Doctors to Regional General Hospitals of Maluku Province Does Not Have Legality?. The objectives to be achieved from this study are: (1) To study, analyze and find out the legality of the actions of the Governor of Maluku in mutating doctors between regional general hospitals in Maluku Province. (2) To study, analyze and find out the consequences of the Law if the Action of the Governor of Maluku in Mutating Doctors between Regional General Hospitals of Maluku Province Does Not Have Legality.

METHODS OF THE RESEARCH

According to the substance of the problem of this research, this type of research is normative legal research, which is a research that mainly examines positive legal provisions, legal principles, legal principles and legal doctrine in order to answer the legal problems faced,⁶ related to the Legality of the Governor of Maluku's Action in Mutating Doctors Between Hospitals. The problem approach used in this study is the approach of laws and regulations, and the concept approach,⁷ to obtain legal arguments to answer problems related to the legality of the Maluku Governor's actions in mutating doctors between hospitals. The legal materials used in this study are primary legal materials and secondary

⁶ Peter Mahmud Marzuki, *Penelitian Hukum*, Prenada Media, Jakarta, 2005, p. 35.

⁷ *Ibid*, p. 93.

legal materials. Primary legal materials and secondary legal materials that have been collected (inventoried), then grouped, and studied with a legislative approach to obtain an overview of the level of synchronization of all legal materials. The classified legal materials are studied, studied and compared with legal theories and principles put forward by experts, to finally be analyzed normatively.

RESULTS AND DISCUSSION

A. Legality of the Maluku Governor's Action to Rotate Doctors Between Hospitals

Every action or decision made by officials or bodies or state administrators, including by the Governor of Maluku, must have legality or validity. Legality or validity is one of the main principles in every action or decision made by agencies or officials or state administration, including the Governor of Maluku. Legality or validity is a principle that is universal in any legal state of law, in criminal law, the principle of legality in the form of "Nullum Delictum, Nulla poena sine praevia lege poenali" is a legal adage derived from the Dutch language which means, "there is no delicacy, there is no crime without regulation first. This principle is normed or becomes the content of the norm formulated in Article 1 paragraph (1) of the Criminal Code, which stipulates that no act can be punished except on the strength of the criminal rules in the existing legislation, before the act is committed.

The principle of legality in state administrative law, in the form of *wetmatigheid van bestLaw*, which means that every government action must have a legal basis in a law and regulation. This principle is the content of the formulation of norms in the provisions of Article 1 number 8 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court, which regulates that State Administrative Agencies or Officials are bodies or officials that carry out government affairs based on applicable laws and regulations. Therefore, in the provisions of Article 5 paragraph (1) of Law Number: 30 of 2014 concerning Government Administration, it is stipulated that the implementation of government administration is based on: a) the principle of legality; b) the basic protection of human rights, and c) The general principles of good governance.

The explanation of Article 5 paragraph (1) Letter a of Law Number 30 of 2014 is explained that what is meant by the principle of legality is that the implementation of Government Administration prioritizes the legal basis of a Decision and/or Action made by Government Agencies and/or Officials. This shows that the principle of legality is one of the principles or legal principles that requires that every legal action or government decision made by agencies or officials or state administrators, including the Governor of Maluku, must be based on the authority stipulated in laws and regulations.

The laws and regulations regulate the authority, as well as the procedures and substance of actions or decisions that must be made or implemented by the Governor's body or official or state administrator, as stipulated in the provisions of Article 8 of Law Number 30 of 2014 which stipulates that: a) Every Decision and/or Action must be determined and/or carried out by the authorized Agency and/or Government Official; b) Government Agencies and/or Officials in the exercise of Authority must be based on: 1) laws and regulations; and 2) The general principles of good governance; c) Government Administration Officials are prohibited from abusing their Authority in determining and/or carrying out Decisions and/or Actions.

Furthermore, in the provisions of Article 9 of Law Number 30 of 2014 which stipulates that: (1) Every Decision and/or Action is mandatory based on the provisions of laws and regulations and the general principles of good governance; (2) The laws and regulations as intended in paragraph (1) include: (a) the laws and regulations that are the basis of the Authority; and (b) laws and regulations that are the basis for determining and/or carrying out Decisions and/or Actions; (3) Agencies and/or Government Officials in determining and/or carrying out Decisions and/or Actions are obliged to include or indicate the provisions of laws and regulations that are the basis of Authority and the basis for determining and/or carrying out Decisions and/or Actions; (4) The absence or ambiguity of laws and regulations as intended in paragraph (2) b, does not prevent the authorized Agency and/or Government Officer from establishing and/or carrying out Decisions and/or Actions as long as they provide public benefits and in accordance with the general principles of Good Governance.

A decision or action of the government, including the Governor of Maluku in carrying out a Doctor Mutation, must be based on laws and regulations. Laws and regulations that stipulate the authority of bodies or officials in carrying out an action or decision. Authority as one of the elements of legality or validity, in addition to the procedures and substance to determine the validity or validity of an action or government decision made by agencies or officials or state administrators, including the Governor of Maluku in carrying out the mutation of doctors between hospitals. So that a government decision or action is considered to have legality or validity if it fulfills 3 (three) elements or elements, namely the element of authority, the element of procedure, and the element of substance as stipulated in the provisions of Article 52 of Law Number 30 of 2014 which stipulates that: (1) The conditions for the validity of the decision include: (a) determined by the authorized official; (b) made in accordance with the procedure; (c) the substance is in accordance with the object of the Decision; (2) the validity of the decision as intended in paragraph (1) is based on the provisions of laws and regulations and the general principles of good governance.

Similarly, Article 64 paragraph (1) of Law Number 30 of 2014 stipulates that a decision can only be revoked if there is a defect in authority: a) authority; b) procedure, and/or c) substance. If one of the three basic elements of legality is not fulfilled, it results in a juridical defect in a decision or government action made by officials or agencies or state administrators, including the Governor. The implementation of authority, procedures, substance in taking or making a government action or decision must be based on the provisions of laws and regulations. The exercise of authority must be in accordance with or based on the procedures that have been established in the provisions of laws and regulations, and the substance of the decision or government action must not contradict the material of the authority given in the laws and regulations in question. Therefore, the author will examine several cases of the implementation of mutating doctors between hospitals by the Governor of Maluku by using indicators of authority, procedures, and substance to get answers related to the legality of the actions of the Governor of Maluku, by starting with the element of authority.

Authority of Doctor Mutation Between Hospitals

Every state administrator, including the Governor of Maluku in carrying out his duties, must have the authority given by laws and regulations as the basis for legality to carry out actions/deeds in the process of administering the State, as said by Ridwan HR, that every state and government administration must have legitimacy, namely the authority given by

laws and regulations. Thus, the substance of the principle of legality is authority. The provisions of Article 191 of Government Regulation Number 11 of 2017 concerning the Management of Civil Servants, as amended by Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning the Management of Civil State Guards, stipulate that Mutations in 1 (one) Central Agency or in 1 (one) Regional Agency are carried out by the Civil Service Supervisory Officer, after obtaining consideration by the Civil Servant performance assessment team.

According to the arrangement, mutation can be carried out in one central agency or regional agency, including the Maluku province area, carried out by the Civil Service Supervisory Officer, after obtaining consideration from the Civil Servant performance assessment team. According to Article 1 number 17 of Government Regulation Number 11 of 2017 stipulates that the Personnel Supervisory Officer, hereinafter abbreviated as the Personnel Supervisory Officer, is an official who has the authority to determine the appointment, transfer, and dismissal of State Civil Apparatus Employees and the development of the management of State Civil Apparatus in government agencies in accordance with the provisions of laws and regulations.

The Civil Service Supervisory Officer is an official authorized to determine the appointment, transfer and dismissal, in Article 3 of Government Regulation Number 17 of 2020 stipulates that: (1) The President as the holder of the highest power for the development of Civil Servants is authorized to determine the appointment, transfer, and dismissal of Civil Servants; (2) The President may delegate the authority to determine the appointment, transfer, and dismissal of Civil Servants to: (a) ministers in the ministry; (b) heads of institutions in non-ministerial government institutions; (c) the Secretary-General in the Secretariat of State Institutions and Non-Structural Institutions; (d) the governor in the province; and (e) Regents/Mayors in districts/cities. (3) Exempt from the provisions as intended in paragraph (2), the appointment, transfer, and dismissal of key high-ranking officials, intermediate high-ranking officials, and key expertise functional officials; (4) The provisions as intended in paragraph (2) letter a include: (a) the Attorney General; and (b) the Chief of the National Police of the Republic of Indonesia. (5) The provisions as intended in paragraph (2) b include: (a) the Head of the State Intelligence Agency; and (b) Other officials determined by the president. (6) The provisions as intended in paragraph (2) c include the Secretary of the Supreme Court; (7) Delegation of authority as intended in paragraph (2) may be withdrawn by the President in the event of: (a) Violation of the principles of the merit system committed by the Personnel Supervisory Officer; or (b) To improve the effectiveness of government administration.

Based on the provisions of Article 3 paragraph (2) letter d of Government Regulation Number 17 of 2020 as mentioned above, it shows that the President can delegate the authority to determine the Appointment, Transfer, and Dismissal of Civil Servants to the Governor. This shows that the President is the Personnel Supervisory Officer, or in other words the Personnel Supervisory Officer is the President. In accordance with the provisions of Article 3 paragraph (2) of Government Regulation Number 17 of 2020 it is emphasized that the President can delegate or hand over or delegate the authority as a Civil Service Supervisory Officer to one of them is to the Governor to determine the appointment, transfer, and dismissal of Civil Servants.

The word "Can" in the provisions of Article 3 paragraph (2) indicates that the President is not obliged to delegate the authority in question. This means that the delegation of authority from the President as the Personnel Supervisory Officer to the Governor to determine the appointment, transfer and dismissal is very disturbed by the President. In other words, the Governor does not automatically act as a Personnel Supervisory Officer. Rather, there must be a delegation from the President, without delegation, the Governor can act as a Personnel Supervisory Officer.

The Governor including the Governor of Maluku can act as a Personnel Supervisory Officer if a delegation has been made by the President, without delegation from the President to the Governor to act as a Personnel Supervisory Officer, so that the Governor including the Governor of Maluku cannot act as a Personnel Supervisory Officer to carry out actions to determine the appointment, transfer and dismissal of Civil Servants including Doctors with the status of Civil Servants.

The Governor, including the Governor of Maluku, can act as a Personnel Supervisory Officer to carry out various government actions in the field of personnel, including mutation as part of the transfer action if he has received a delegation from the President to act as a Personnel Supervisory Officer. Therefore, without a Delegation from the President to the Governor, including the Governor of Maluku, it is not possible to carry out the mutation of Civil Servants in the Province, including Doctors between hospitals. Mutation is part of the transfer that is the authority of the Personnel Supervisory Officer.

In the delegation confirming a delegation of authority to another government body, in the Dutch Administrative Law has formulated the definition of delegation in Dutch wet which is known as AWB (*Algemene Wet Bestuursrecht*). Article 10: 3 of the AWB, delegation is interpreted as the transfer of authority (to make a "besluit") by a government official (state administrative official) to another party and the authority is the responsibility of the other party. Those who give/delegate authority are called delegates and those who receive are called delegates. So a delegation is always preceded by an attribution of authority. Normatively, in the provisions of Article 1 paragraph (23) of Law Number 30 Tahun 2014, it is stated that Delegation is the delegation of authority from higher Agencies and/or Government Officials to lower Agencies and/or Government Officials with the responsibility and liabilities shifting completely to the recipient of the delegation.

Article 13 of Law Number 30 of 2014 stipulates that: (1) Delegation of Authority is determined based on the provisions of laws and regulations; (2) The Agency and/or Government Official obtains Authority through the Delegation if: (a) it is given by the Agency/Government Official to the Agency and/or other Government Official; (b) stipulated in Government Regulations, Presidential Regulations, and/or Regional Regulations; and (c) is a delegated authority or has previously existed. (3) The authority delegated to the Agency and/or Government Officials cannot be delegated further, unless otherwise specified in the laws and regulations. (4) In the event that the provisions of laws and regulations determine otherwise as intended in paragraph (3), the Agency and/or Government Official that obtains the Authority through the Delegation as intended in paragraph (2) may subdelegate the Action to other Agencies and/or Government Officials with the following provisions: (a) stated in the form of regulations before the Authority is exercised; (b) carried out within the government itself; and (c) most given to Agencies and/or Government Officials 1 (one) level below. (5) The Agency and/or Government

Official that grants the Delegation may use the Authority that has been granted through the Delegation, unless otherwise specified in the provisions of laws and regulations; (6) In the event that the exercise of Authority based on Delegation causes ineffectiveness in the administration of government, the Agency and/or Government Officials that grant the delegation of Authority may withdraw the Authority that has been delegated. (7) Government Agencies and/or Officials who obtain Authority through Delegation, the responsibility of Authority lies with the recipient of the Delegation.

The President when delegating authority to the Governor of Maluku to act as a Civil Service Supervisory Officer to determine the appointment, transfer, and dismissal of Civil Servants must be stipulated in a Government Regulation or Presidential Regulation or a Provincial Regional Regulation. Based on the results of interviews conducted by the author when conducting research and the results of analysis of various provisions of laws and regulations, no Government regulations or Presidential Regulations or Provincial Regional Regulations governing the delegation of authority from the President as the Personnel Supervisory Officer to the Governor of Maluku to act as a Personnel Supervisory Officer to determine the appointment, transfer, and dismissal of Civil Servants Civil, including carrying out doctor mutations. This shows that there is no delegation of authority from the President to the Governor of Maluku to act as a Personnel Supervisory Officer in carrying out acts of transfer or mutassi to State Civil Apparatus in the Maluku Province area, including Doctors. Therefore, if the Governor of Maluku conducts a mutation of Doctors between hospitals in the Maluku Province area, then the mutation action carried out by the Governor of Maluku is considered an action without any basis for authority.

As happened in 2022, where the actions of the Governor of Maluku, through Decree Number 824.3/891 of 2022, concerning the Mutation of Civil Servants have mutated dr. Isabela Huliselan, SP. FK., on November 7, 2022, from the Maluku Provincial General Hospital dr. M. Haulussy Ambon was transferred to the Maluku Province Regional Special Hospital Road. Admiral Leo Wattimena, Kelurahan. Old Town - Ambon. Then through the Decision of the State Administrative Court Number 8/G/2023/PTUN. ABN on June 7, 2023, the person concerned was returned to his original place at the Maluku Provincial General Hospital dr. M. Haulussy Ambon.

The same action was also taken by the Governor of Maluku, through Decree Number 824.3/892 of 2022, concerning the Mutation of Civil Servants, on behalf of dr. Ingrid Sihasale, S.Ked., M.K.K., dated November 7, 2022 from the Regional General Hospital of Maluku Province dr. M. Haulussy Ambon was transferred to the Regional General Hospital dr. Ishak Umarella Tulehu, Central Maluku. Then through the Decision of the State Administrative Court Number 7/G/2023/PTUN. ABN on June 7, 2023, the person concerned was returned to his original place at the Maluku Provincial General Hospital dr. M. Haulussy Ambon.

Previously, also in 2021, the Governor of Maluku without delegating authority had mutated 4 (four) specialist doctors in accordance with the Decree of the Governor of Maluku Number 82.4/83 of 2021, who had served at the Maluku Provincial General Hospital dr. M. Haulussy Ambon, which was transferred to the Regional General Hospital dr. Ishak Umarella which is located in Tulehu, Central Maluku, namely Doctor Rodrigo Limon (Specialising in Teeth, Nose, Throat), Doctor Mulyati (Special Pulmonary), Doctor Charmila Tamtalahitu (Ophthalmology) and Doctor Chintia Pentury (Internal Medicine Specialist).

The action of the Governor of Maluku to make a mutation of the Doctor as mentioned, according to the author, is an action without a basis for authority. This means that the Governor of Maluku does not get the delegation of authority from the President to act as a Personnel Supervisory Officer to carry out mutation actions which are part of the transfer of Civil Servants, thus the action of the Governor of Maluku to carry out the mutation of Doctors between hospitals is carried out without a basis for authority, because there is no delegation of authority from the President as the holder of the highest power of the development of the State Civil Apparatus to carry out mutations or transfer of doctors as regional State Civil Apparatus from one hospital to another. This is evidenced by the absence of Government regulations or Presidential Regulations or Provincial Regulations that regulate the delegation of authority from the President to the Governor of Maluku for the action in question. Therefore, the decision of the Governor of Maluku to carry out the mutation of doctors between hospitals in Maluku Province is considered an act of mutation without a basis for authority.

Doctor Mutation Procedure Between Hospitals

Based on Article 190 of Government Regulation Number 11 of 2017, it stipulates that: a) Government Agencies prepare mutation plans for Civil Servants in their environment; b) Each Civil Servant can be transferred to 1 (one) Central Agency, between Central Agencies, 1 (one) Regional Agency, between Regional Agencies, between Regional Agencies, between Central Agencies and Regional Agencies, and to representatives of the Unitary State of the Republic of Indonesia abroad; c) Mutation as intended in paragraph (2) is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years; d) Mutation as intended in paragraph (2) is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, taking into account the needs of the organization; e) Mutation of Civil Servants as intended in paragraph (2) is carried out by paying attention to the principle of prohibition of conflicts of interest; f) In addition to mutation due to duties and/or location as intended in paragraph (2), Civil Servants may apply for mutation of duties and/or locations at their own request.

Based on the arrangement as intended, it shows that a government agency both at the central and regional levels, including the Maluku provincial area, must prepare a mutation plan. This means that mutations can be carried out if the government agency that will carry out the mutation has carried out planning in the work plan of the agency in question. In fact, the mutation in question is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years. Furthermore, the implementation of mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, by taking into account the needs of the organization, there should be no conflict of interest in the implementation of the mutation. In addition to mutation due to duties and/or location, Civil Servants may apply for mutation of duties and/or locations at their own request.

The regulatory material as referred to in the provisions of the aforementioned Article is also regulated in Article 2 of the Regulation of the Civil Service Agency of the Republic of Indonesia Number 5 of 2019 concerning Mutation Procedures, which stipulates that: 1) Government Agencies prepare mutation planning for Civil Servants in their environment; 2) Planning for Civil Servant mutation as referred to in number 1 needs to pay attention to the following aspects: a) competence; b) career pattern; c) employee mapping; d) succession plan group (talent pool); e) career transfer and development; f) assessment of work

performance/performance and work behavior; g) organizational needs; and h) the nature of the technical or policy work depends on the classification of the position. 3) Mutation as intended in paragraph (1) consists of: a) mutation of Civil Servants in one Central Agency or Regional Agency; b) mutation of Civil Servants between districts/cities in one province; c) the mutation of Civil Servants between districts/cities, between provinces, and between provinces; d) mutation of provincial/regency/city Civil Servants to Central Agencies or vice versa; d) mutation of Civil Servants between Central Agencies; and e) mutation to the representative of the Unitary State of the Republic of Indonesia abroad. 4) Mutation is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years; 5) Mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of position, position classification and career pattern, taking into account the needs of the organization; 6) Civil Servant Mutation is carried out by paying attention to the principle of prohibition of conflicts of interest; 7) In addition to mutation due to duties and/or locations as intended in paragraph (3), Civil Servants may apply for mutation of duties and/or locations at their own request.

The provisions as mentioned show that the mutation procedure in government agencies and local governments, including public regional hospitals in Maluku Province, must prepare a mutation plan before mutation is carried out, except because the duties and/or location of a Civil Servant can apply for a mutation of duties and/or locations at their own request. Mutation at the request itself is given with the following considerations: a) paying attention to the career pattern of the Civil Servant concerned; b) not contrary to the applicable laws and regulations; c) does not contradict the agency's internal regulations; and d) are not in the process or undergoing disciplinary punishment and/or judicial proceedings signed by the work unit that handles personnel.

Mutation can be done if mutation planning has been carried out in the work plan of the agency in question. The implementation of the mutation is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years. The implementation of mutation is carried out on the basis of the compatibility between the competence of Civil Servants and the requirements of the position, position classification and career pattern, taking into account the needs of the organization, there should be no conflict of interest in the implementation of the mutation. The Civil Service Supervisory Officer will make a mutation if it has received consideration from the Civil Servant performance assessment team. Mutation actions carried out by the Civil Service Supervisory Officer must be considered by the Civil Servant performance assessment team. The planning of the mutation of Civil Servants needs to pay attention to the following aspects: a) Competence; b) Career pattern; c) Mapping of employees; d) Succession plan group (talent pool); e) Career transfer and development; f) Assessment of work performance/performance and work behavior; g) Organizational needs; and h) the nature of the technical or policy work depending on the classification of the position.

The mutation procedure as referred to is stipulated in the provisions of Article 4 of the State Civil Service Agency Regulation Number 5 of 2019 which stipulates that mutation procedures other than mutations in 1 (one) central or regional agency, are carried out as follows: a) The Personnel Supervisory Officer of the receiving agency makes a proposal for mutation to the Personnel Supervisory Officer of origin or agency where the Civil Servant concerned works to request approval; b) The proposal for mutation from the Personnel Supervisory Officer of the receiving agency as referred to in letter a, is made according to

the example as stated in Attachment II which is an integral part of this Agency Regulation; c) If the Personnel Supervisory Officer of the original Agency approves, a mutation agreement is made; d) Approval of mutation from the Personnel Supervisory Officer of the home agency as referred to in letter c, made according to the example as stated in Attachment III which is an integral part of this Agency Regulation; d) The approval of the mutation as intended in letter d is made in 2 (two) copies and submitted to: (1) The Personnel Supervisory Officer of the receiving agency; and (2) the Civil Servant concerned; e) Based on the approval of the mutation as intended in letter c, the Personnel Supervisory Officer of the receiving agency submits a mutation proposal to the Head of the State Civil Service Agency / Head of the Regional Office of the State Civil Service Agency to obtain technical considerations; f) The proposal for mutation as intended in letter f, is made according to the example as stated in Annex IV and Annex v which are an integral part of this Agency Regulation; g) Technical consideration of the Head of the State Civil Service Agency / Head of the Regional Office of the State Civil Service Agency is given if it meets the requirements and after the State Civil Service Agency verifies and validates the needs of the position in the recipient agency and the source agency; h) The technical consideration of the Head of the State Civil Service Agency / Regional Office of the State Civil Service Agency as referred to in letter h is determined no later than 15 (fifteen) days from the receipt of the mutation proposal; i) The technical considerations of the Head of the State Civil Service Agency / Head of the Regional Office of the State Civil Service Agency as intended in letter h, shall be made according to the example as stated in Attachment VI which is an integral part of the Regulation of this Agency; j) Based on the technical considerations of the Head of the State Civil Service Agency / Head of the Regional Office of the State Civil Service Agency as intended in letter h, the appointed official shall determine the decision of mutation according to his authority. The decision on mutation as referred to in letter k, is made according to the example as stated in Annex VII which is an integral part of this Agency Regulation; k) The decision on mutation is made in at least 5 (five) copies and submitted to: (1) The Personnel Supervisory Officer of the receiving agency; (2) Personnel Supervisory Officer of the original agency; (3) The Civil Servant concerned; (4) Head of the Office of Treasury and State Treasury / Regional Treasury; and (5) Head of the State Civil Service Agency / Head of the Regional Office of the State Civil Service Agency. l) Based on the decision of mutation as referred to in letter k, then: (1) The Personnel Supervisory Officer of the receiving agency determines the decision of appointment in the position; and (2) The Personnel Supervisory Officer of the original agency determines the decision to dismiss from office. m) The decision to appoint Civil Servants in positions as referred to in letter n number l, is made according to the example as stated in Attachment VIII which is an integral part of this Agency Regulation; (n) The decision of appointment in office by the Personnel Supervisory Officer of the receiving agency and the decision of dismissal from office by the Personnel Supervisory Officer of the original agency as intended in letter n, shall be determined no later than 30 (thirty) calendar days from the date of the determination of the mutation decision.

The arrangement as mentioned is the basis for the procedure in carrying out mutations both in government agencies and regional agencies, including in the local government of Maluku Province. This means that the implementation of employee mutations, including doctors between hospitals in the administrative area of Maluku Province, must be based on the Procedure. The procedure begins with the preparation of the doctor's mutation plan carried out by the Halussy doctor hospital who will carry out the mutation and the Izaak

Umarella doctor hospital which will accept the doctor who receives the mutation doctor, in the work plan of the two hospitals which is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years. Likewise, there must be a team to assess the performance of doctors which will be mutated for a minimum of 2 (two) years and a maximum of 5 (five) years. This is to find out the suitability between the competence of doctors who will be mutated with the requirements of the position, position classification and career pattern, by taking into account the needs of the organization, and there should be no conflict of interest in the implementation of mutations.

However, the case of the mutation of Doctor Rodrigo Limon (Ear, Nose, Throat Specialist), doctor Mulyati (Pulmonary Specialist), Doctor Charmila Tamtalahitu (Ophthalmology) and Doctor Chintia Pentury (Internal Medicine Specialist), in 2021 from Dr. Haulussy hospital to dr. Izaak Umarella hospital, there was no mutation planning carried out by dr. Halussy and dr. Izaak Umarella hospital, and there was no study from the Performance Assessment Team. This was conveyed by the director of the hospital D. Haulussy, and also conveyed by the four doctors at a hearing with the Maluku Provincial House of Representatives on November 1, 2021. The 4 (four) doctors were suddenly transferred by the Governor of Maluku.

Mutation procedures other than mutations in 1 (one) Central Agency or in 1 (one) Regional Agency, are carried out as follows: a. The recipient Personnel Supervisory Officer makes a mutation proposal to the Personnel Supervisory Officer of origin or agency where the Civil Servant concerned works to request approval; b. If the Personnel Supervisory Officer of the original Agency approves, a mutation approval is made; c. Based on the approval as intended, the Personnel Supervisory Officer of the receiving agency submits a proposal for mutation to the Head of the State Civil Service Agency/Head of the Regional Office of the State Civil Service Agency to obtain technical consideration, which is given no later than 15 (fifteen) working days from the receipt of the mutation proposal; d. Based on the technical considerations of the Head of the State Civil Service Agency/Head of the Regional Office of the State Civil Service Agency, the appointed official determines the decision of mutation according to his authority; and e. Furthermore, based on the mutation decision as intended, then: 1) The Personnel Supervisory Officer of the receiving agency determines the appointment decision in the position; and 2) The Personnel Supervisory Officer of the original agency determines the decision to dismiss from the position.

Substance Mutation Doctor

The creation of professional employees who have high performance and work achievement, various Human Resource development programs have been carried out, including employee arrangement by means of mutation and promotion patterns. The mutation of the State Civil Apparatus needs to be reviewed from the qualifications, the transfer can be carried out if the necessary educational qualifications are met, competence, is a transfer process by means of psychological tests, simulation assessments, and attitude interviews and traces the track record of Civil Servants. Fair and reasonable, is a mutation process carried out to all Civil Servants without discriminating who meets the mutation requirements and is open, namely the mutation process starts from the implementation of the need for the formation of mutation Civil Servants until a Decree or commonly referred to as a Mutation Transfer Decree is determined. Accountability, which is the mutation process that is carried out can be accounted for administratively and legally.

The implementation of mutation of State Civil Apparatus, including doctors in Maluku Province, must be carried out on the basis of organizational needs aimed at fulfilling good government services in the health sector. Therefore, the implementation of mutation must be planned, and must be in accordance with the provisions of laws and regulations, as stipulated in the provisions of Article 190 of Government Regulation Number 11 of 2017 which stipulates that: (1) Government Agencies prepare mutation planning for Civil Servants in their environment; (2) Each Civil Servant can be transferred to 1 (one) Central Agency, inter-Central Agency, 1 (one) Regional Agency, inter-Regional Agency, between Central Agencies and Regional Agencies, and to representatives of the Unitary State of the Republic of Indonesia abroad; (3) Mutation as intended in paragraph (2) is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years; (4) Mutation as intended in paragraph (2) shall be carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, taking into account the needs of the organization; (5) The mutation of Civil Servants as intended in paragraph (2) shall be carried out by paying attention to the principle of prohibition of conflicts of interest; (6) In addition to mutation due to duties and/or location as intended in paragraph (2), Civil Servants may apply for mutation of duties and/or locations at their own request. However, as previously stated, the action of the governor of Maluku to make a mutation that is not based on authority and procedures results in the substance of the mutation action contrary to the provisions of laws and regulations. The action of the Governor of Maluku who carried out the mutation without the basis of authority, and was not based on procedures and subsidies, resulted in the action of the Governor making the mutation in question without legality or validity.

The action of the Governor of Maluku to transfer doctors between hospitals was carried out without a basis for authority, because there was no delegation of authority from the President as the holder of the highest power in the development of the State Civil Apparatus to carry out mutations or transfer of doctors as regional State Civil Apparatus from one hospital to another. This is evidenced by the absence of Government regulations or Presidential Regulations or Provincial Regulations that regulate the delegation of authority from the President to the Governor of Maluku for the action in question. Similarly, mutations are carried out through the procedure of compiling mutation planning. This means that mutations can be carried out if the government agency that will carry out the mutation has carried out planning in the work plan of the agency in question. In fact, the mutation in question is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years. Furthermore, the implementation of mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, by taking into account the needs of the organization, there should be no conflict of interest in the implementation of the mutation. In addition to mutation due to duties and/or location, Civil Servants may apply for mutations of duties and/or locations at their own request. The implementation of mutation is carried out on the basis of the compatibility between the competence of Civil Servants and the requirements of the position, position classification and career pattern, taking into account the needs of the organization, there should be no conflict of interest in the implementation of the mutation. The Civil Service Supervisory Officer will make a mutation if it has received consideration from the Civil Servant performance assessment team. Mutation actions carried out by the Civil Service Supervisory Officer must be considered by the Civil Servant performance assessment team. Similarly, the substance of the mutation of

the State Civil Apparatus, including doctors in Maluku Province, must be carried out on the basis of organizational needs that aim to fulfill good government services in the health sector.

B. Legal Consequences of the Governor of Maluku's Actions That Do Not Have Legality in the Mutation of Doctors Between Regional General Hospitals of Maluku Province.

Every action or act or decision of a body or official or state administrator, including the governor of Maluku, certainly has legal consequences. Similarly, the act of mutation of doctors between hospitals in several regional hospitals of Maluku province as discussed previously carried out by the Governor of Maluku which is considered to have no legality because the mutation action is not based on authority, procedures and substance, of course, it has legal consequences. As stipulated in the provisions of Article 52 paragraph (1) of Law Number 30 of 2014 which stipulates that the conditions for the validity of the Decision include: a) determined by the authorized official; b) made in accordance with the procedure; and c) the substance that is in accordance with the object of the Decision. As previously mentioned, the actions of the Governor of Maluku in carrying out mutation actions against doctors between hospitals that are without authority, and are not in accordance with the procedures and substance so that the mutation action does not have legality, because the actions taken by the Governor of Maluku are considered an act of abuse of authority so that they have legal consequences for the mutation decision in question are Invalid.

According to Philipus M. Hadjon⁸ that "An invalid decision may result in *van rechtswege nietigheid* (null and void), *nietig* (null and void), or *vernietigbaar* (voidable). *Nietig* means that for the law the deeds committed are considered non-existent. Consequently, for the law as a result of the act is considered to have never existed. *Vernietigbaar* means for the law the acts committed and the legal consequences are considered to exist until the time of cancellation by a judge or other competent governmental body. *Nietigheid van rechtswege* means that for the law the consequences of an act are considered to be non-existent without the need for a decree annulling that act." Furthermore, Philipus M. Hadjon stated that government actions can be null and void due to law, null or void depending on the essential shortcomings contained in the decision.

Article 70 of Law Number 30 of 2014 stipulates that: (1) Decisions and/or Actions are invalid if: (a) they are made by an unauthorized Agency and/or Government Official; (b) made by a Government Agency and/or Officer in excess of its authority; and/or (c) made by an arbitrary Government Agency and/or Official. (2) The legal consequences of the Decision and/or Action as intended in paragraph (1) become: (a) not binding since the Decision and/or Action is determined; and (b) any legal consequences are considered to have never existed. (3) In the event of a Decision that results in the payment of state money is declared invalid, the Agency and/or Government Officials are obliged to return the money to the state treasury.

Based on the arrangement as mentioned, the action of the Governor of Maluku to make a mutation of doctors between hospitals is considered non-binding since the decision in question was determined and all legal consequences that arise are considered to have never existed, because the mutation carried out by the Governor is null and void for the sake of the law, as stipulated in the provisions of Article 70 paragraph (2) of Law Number 30 of 2014

⁸ Philipus M. Hadjon, *Pengertian-Pengertian Dasar Tindak Pemerintahan (BestUndang-Undangshandelingen)*, Percetakan Djumali, Surabaya, 1985, p. 27.

which stipulates that the legal consequences of the decision and/or action are not valid has become non-binding since the Decision and/or Measure is determined, and all legal consequences arising are deemed to have never existed.

This is as stated by Philipus M. Hadjon that *Nietigheid van rechtswege* means that the law as a result of an act is considered to be non-existent without the need for a decree canceling the act. Therefore, since the mutation decree stipulated by the Governor regarding Doctor Mutation is considered null and void and is considered to have never existed, then the legal consequences of the action of the Governor of Maluku to carry out mutations against doctors between hospitals are considered non-binding since the decision in question was determined and all legal consequences that arise are considered to have never existed, because the mutation carried out by the Governor is null and void for the sake of the law. This is as stipulated in the provisions of Article 70 paragraph (2) of Law Number 30 of 2014 which stipulates that the legal consequences of a Decree and/or Action are not valid to be non-binding since the Decision and/or Action is determined, and all legal consequences caused are considered to have never existed.

CONCLUSION

The action of the Governor of Maluku to transfer doctors between hospitals was carried out without a basis for authority, because there was no delegation of authority from the President as the holder of the highest power in the development of the State Civil Apparatus to carry out mutations or transfer of doctors as regional State Civil Apparatus from one hospital to another. This is evidenced by the absence of Government regulations or Presidential Regulations or Provincial Regulations that regulate the delegation of authority from the President to the Governor of Maluku for the action in question. Similarly, mutations are carried out through the procedure of compiling mutation planning. This means that mutations can be carried out if the government agency that will carry out the mutation has carried out planning in the work plan of the agency in question. In fact, the mutation in question is carried out for a minimum of 2 (two) years and a maximum of 5 (five) years. Furthermore, the implementation of mutation is carried out on the basis of the suitability between the competence of Civil Servants and the requirements of the position, position classification and career pattern, by taking into account the needs of the organization, there should be no conflict of interest in the implementation of the mutation.

(2) The action of the Governor of Maluku in carrying out the act of mutation against doctors between hospitals that is without authority, and not in accordance with the procedures and substance so that the mutation action does not have legality, because the actions taken by the Governor of Maluku are considered acts of abuse of authority so that they have legal consequences for the decision of the mutation is not valid, then the action of the Governor of Maluku to carry out a mutation of doctors between hospitals is considered not binding since the decree in question was determined and all legal consequences that arise are considered to have never existed, because the mutation carried out by the Governor is null and void for the sake of the Law.

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