# Due Care as Preventive Legal Protection for Third Parties in Digital Access Termination

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***Abstract:*** *Indonesian authorities terminate access to digital platforms to remove unlawful content and to sanction electronic system operators that have not registered. When such a sanction operates at domain level, as in the July 2022 termination reviewed in Decision 424/G/TF/2022/PTUN.JKT, its effect reaches users who are neither the breach's subject nor its addressee. This article asks why repressive legal protection through an unlawful-act claim against a government body is structurally limited for third parties, and how due care may be built into preventive protection for system-assisted administrative action. Using normative legal research with statutory, conceptual and case approaches, it measures the repressive path against three indicators of contestability read from Law Number 30 of 2014, and finds none met. Two cannot be supplied by an official deciding a case: a compensation ceiling fixed in 1991, and the coercive means of Article 116 of Law Number 51 of 2009, inoperable because the regulation it delegates has never been issued. It then constructs two components of due care from Article 10 paragraph (1) letter d and its Elucidation, meaningful human review and mitigation of collateral impact on third parties, each carrying a documentary indicator an official can satisfy and a court test.*

***Keywords:*** *preventive legal protection; principle of due care; collateral impact on third parties; meaningful human review; contestability*

**Abstract**: Otoritas Indonesia menghentikan akses ke platform digital untuk menghapus konten ilegal dan memberikan sanksi kepada operator sistem elektronik yang belum mendaftar. Ketika sanksi semacam itu berlaku di tingkat domain, seperti dalam penghentian Juli 2022 yang ditinjau dalam Keputusan 424/G/TF/2022/PTUN. JKT, efeknya mencapai pengguna yang bukan subjek pelanggaran maupun penerimanya. Artikel ini menanyakan mengapa perlindungan hukum represif melalui klaim tindakan ilegal terhadap badan pemerintah secara struktural dibatasi bagi pihak ketiga, dan bagaimana kehati-hatian dapat dibangun dalam perlindungan pencegahan untuk tindakan administratif berbantuan sistem. Dengan menggunakan penelitian hukum normatif dengan pendekatan statutori, konseptual, dan kasus, studi ini mengukur jalur represif terhadap tiga indikator kontestabilitas yang dibaca dari Undang-Undang Nomor 30 tahun 2014, dan menemukan tidak ada yang terpenuhi. Dua tidak dapat disediakan oleh pejabat yang memutuskan kasus: batas kompensasi yang ditetapkan pada tahun 1991, dan cara koersif dalam Pasal 116 Undang-Undang Nomor 51 tahun 2009, yang tidak dapat digunakan karena peraturan yang didelegasikan tidak pernah diterbitkan. Kemudian ia membangun dua komponen kehati-hatian yang layak dari Pasal 10 ayat (1) huruf d dan penjelasannya, yaitu tinjauan manusia yang bermakna dan mitigasi dampak sampingan terhadap pihak ketiga, masing-masing membawa indikator dokumenter yang dapat dipenuhi oleh pejabat dan uji pengadilan.

**Kata kunci**: perlindungan hukum preventif; prinsip kehati-hatian; dampak sampingan terhadap pihak ketiga; tinjauan manusia yang bermakna; keberlanjutan

## INTRODUCTION

Content and access control has become one of the highest-volume fields of administrative action in Indonesia, and it runs along two distinct pathways. The first addresses unlawful content: the Negative Content Scavenger Machine (AIS) has operated since January 2018, with cumulative blockings reaching hundreds of thousands of social media items and millions of websites (Harahap, 2025; Makarim et al., 2019), supported, for specific content such as online pornography, by layered detection that automates roughly 80 to 85 percent of monitoring at a recorded accuracy of 85 percent for visual and 75 percent for textual material (Fahririn et al., 2024). The second addresses operators rather than content, terminating access as an administrative sanction for registration default. They differ in trigger and instrument, yet both execute through infrastructure shared with parties who are not the addressee.

Access termination against eight digital platforms at the end of July 2022 shows what that shared execution produces. The sanction rested on Article 100 of Government Regulation Number 71 of 2019 in conjunction with Article 7 paragraph (2) of Minister of Communication and Informatics Regulation Number 5 of 2020, answering the failure of private-scope electronic system operators (*penyelenggara sistem elektronik*, PSE) to register (Decision 424/2022, p. 156). Operating at domain level, it reached users, freelance workers, and businesses in subsisting relationships with those operators, none of them the subject of the breach or the addressee of the sanction. Jakarta State Administrative Court Decision Number 424/G/TF/2022/PTUN.JKT (hereafter Decision 424/2022) records 213 complaints gathered at a legal aid post, of which 47 reported loss and 20 supplied supporting evidence, with an estimated aggregate of IDR 1,556,840,000 (p. 21); digital assets of IDR 71,755,783 and IDR 8,474,942 rendered inaccessible (p. 9); and an online news outlet unable to renew a premium website tool on the day of execution (p. 12) (Wiryawan et al., 2024).

Two acknowledgements belong at the outset. The registration obligation pursues a legitimate regulatory aim, and the authority to sanction operators that do not comply is not placed in question. The sanction regime is graduated in part: Ministerial Regulation 5/2020 Article 7 paragraph (3) moves through written reprimand and temporary suspension before access termination for registered operators that fail to report changes or supply correct information, while Article 7 paragraph (2) attaches access termination directly to a failure to register (Adhari et al., 2021). Decision 424/2022 found the measure procedurally compliant, warning letters to the operators and a five-day period having preceded execution (pp. 157–158), and rejected the plea that due care had been breached, holding that the obligation and its sanction had been disseminated to supervising ministries and agencies, associations, private-scope operators, and the public before the measure was taken (p. 162). That assessment is accepted rather than contested. It tests compliance within the relationship between authority and operator; whether the same principle also reaches those outside that relationship is a distinct question, and the one taken up here.

Reviewability is likewise settled. Article 87 of Law Number 30 of 2014 on Government Administration extends the meaning of a state administrative decision (*keputusan tata usaha negara*, KTUN) to factual action (*feitelijke handeling*) (Bimasakti, 2018), and Supreme Court Regulation Number 2 of 2019 assigns claims of unlawful act by a government body (*onrechtmatige overheidsdaad*) to the State Administrative Court (Pengadilan Tata Usaha Negara, PTUN) under Article 2 paragraph (1) (Ashar & Dadek, 2026). Decision 424/2022 applied that construction to the termination of access to eight sites and digital platforms, executed by entering their addresses in the national blocking register (pp. 136–138; execution described in testimony at pp. 125–126). The appellate court adopted that reasoning in its entirety without re-examining the qualification (Decision 218/B/TF/2023/PT.TUN.JKT, pp. 7–8), and cassation was refused, partly on the ground that the remaining grounds concerned the appraisal of evidence (Decision 388 K/TUN/TF/2024, pp. 4–6). Qualification and jurisdiction are premises here, not findings.

What remains open lies at the other end. Government Regulation Number 43 of 1991 Article 3 paragraph (1) caps compensation at IDR 5,000,000 (Ilmiyah, 2023, p. 208), a figure that the regulation contemplated by Article 72 paragraph (2) of Law 30/2014 has never replaced, and the coercive means provided by Article 116 paragraphs (4) to (6) of Law Number 51 of 2009 cannot be operated, because the amount of the penalty payment and the manner of its execution, delegated by paragraph (7) to a further regulation, have never been settled (Ashar & Dadek, 2026). Administrative remedy under Articles 75 to 78 of Law 30/2014 adds a third constraint, since normative disharmony leaves its mandatory character unsettled and objections are examined within the chain of command that issued the order (Desiana & Abdussamad, 2026), so the contestability actually available is low (Desiana & Abdussamad, 2026, p. 256). The factual action left no written instrument addressed to those it burdened, its execution consisting of a list transmitted by electronic mail and entered in the national blocking register (Decision 424/2022, pp. 125–126). Whether these constraints are structural rather than implementational, and whether they carry doctrinal weight for the phase preceding action, is a proposition to be won rather than assumed.

Scholarship approaches access termination along two tracks. One reads it in the register of human rights, testing blocking against freedom of expression and the proportionality of limitation (Adhari et al., 2021). The other reads it in the register of judicial competence, maturing on conventional physical measures before reaching digital execution (Bimasakti, 2018; Ridwan, 2021). Both are established, the second settled in the case law relied on here. Work that reaches losses borne by users documents them and records that recovery is difficult (Wiryawan et al., 2024). The reviewed literature does not yet appear to convert those recorded constraints into a doctrinal justification for a measurable standard owed, before action, to parties outside the sanctioned relationship.

Preventive legal protection operates before definitive action, admitting objection or opinion from those concerned before a governmental decision takes definitive form, while repressive legal protection settles the dispute afterwards (Hadjon, 2011; Ridwan HR, 2018; Zamroni, 2021), and where detailed statutory regulation is absent the general principles of good governance (*asas-asas umum pemerintahan yang baik*, AUPB) supply the operative ground of review (*toetsingsgronden*) (Ridwan, 2021; Tungga, 2025). Article 10 paragraph (1) letter d of Law 30/2014 names due care among those principles, and its Elucidation requires a decision or action to rest on complete information and documents and to be prepared carefully before it is taken, which doctrine reads along a formal and a material dimension, a distinction Indonesian scholarship takes from Dutch administrative law and treats as bearing directly on legal protection (Ridwan HR, 2018; Yulida et al., 2022). Two components are proposed within it: meaningful human review, which manual verification doctrine distinguishes from the formal presence of an authorising official (Ayu, 2025; Yulida et al., 2022), and mitigation of collateral impact on third parties. Both are advanced *de lege ferenda*, resting on legal certainty that is just under Article 28D paragraph (1) of the 1945 Constitution (Hariansah & Qhistina, 2026).

Two questions organise the analysis, forming one inquiry because the second draws its doctrinal warrant from the first. The first asks why repressive legal protection through a claim of unlawful act by a government body is structurally limited in restoring losses suffered by third parties. The second asks how the principle of due care (*asas kecermatan*; *zorgvuldigheidsbeginsel*) may be constructed as a preventive protection standard for system-assisted administrative action. Foreign positive law supplies no normative model, and foreign doctrine appears only where it traces the origin of concepts now living within Law 30/2014. The strongest objection, that such a standard would burden administration at the scale of millions, is met by separating sanctions with domain-wide effect from routine content filtering rather than by denying the question of capacity. What is claimed reaches beyond digital regulation to any administrative sanction whose effect passes through infrastructure shared with parties outside its addressee.

## RESEARCH METHOD

Answering those questions calls for a design, and this study is normative legal research. Its object is a standard not yet formulated, so the aim is prescriptive: what the law ought to require, answered from within positive law rather than from policy preference. Three approaches carry that aim. The statutory approach reads Law 30/2014 together with its implementing regulations and the rules governing review. The conceptual approach works on preventive and repressive legal protection, due care, and collateral impact on third parties. The case approach is illustrative, supplying a documented instance in which a sanction and its burden came apart.

Materials were selected by function rather than by topic. A source enters when it carries a proposition in the chain running from the limits of recovery to the content of the standard, and each is used only to the extent of what it can prove. The instruments establish the existence and address of legal obligations. Decision 424/2022 shows the direction of interpretation those instruments have received, and is used for that direction rather than as a source of binding rules, its weight resting on the vertical consistency of that reasoning through appeal and cassation. Because a first-instance record contains pleadings and testimony alongside the court's own reasoning, each reference states which of these it draws on, and party material is not reported as a holding. Recorded figures establish scale and consequence and nothing beyond. Journal literature maps positions, and standard doctrinal texts supply the settled meaning of the concepts the construction works with.

Interpretation proceeds grammatically and systematically. Article 10 paragraph (1) letter d of Law 30/2014 and its Elucidation are read against Article 87, against Article 71 paragraph (1), and against the sanction regime of Article 7 of Ministerial Regulation 5/2020, so that due care takes content from the system it belongs to rather than from ordinary meaning. Each doctrinal device is then tested from two directions: readings that support the construction and readings that resist it are both reported, and the conclusion follows from the balance. Rival constructions are named and eliminated on the record. What results are proposals *de lege ferenda*, not findings that existing obligations have been breached.

Comparative material is controlled rather than borrowed. Foreign doctrine enters only to trace where concepts now operating inside Law 30/2014 came from, functioning as an analytical instrument absorbed through legal discovery rather than as authority (Lestari et al., 2025). Foreign positive law on platform regulation is excluded, since the argument does not require it and transplanted institutions are unlikely to be absorbed by a legal culture that reads statutes literally (Bedner, 2013). Field data, algorithmic auditing, and quantification of loss lie outside this design, which holds the conclusions to doctrinal propositions open to testing.

## RESULTS AND DISCUSSION

### STRUCTURAL LIMITATIONS OF REPRESSIVE PROTECTION FOR THIRD PARTIES

The doctrine of legal protection for citizens separates preventive legal protection, before definitive action, from repressive legal protection, which settles disputes and restores position afterwards; the preventive branch works by admitting objection before a decision becomes definitive, so that it prevents disputes rather than resolving them (Hadjon, 2011; Ridwan HR, 2018; Zamroni, 2021). Contestability is the capacity of a burdened party to put an action in question and obtain correction, and its indicators can be read from the mechanism the law already provides. Articles 75 and 76 of Law 30/2014 open objection and administrative appeal to any citizen harmed by a decision or action, while Article 77 paragraph (1) runs the twenty-one working day period from the announcement of a Decision, presupposing an instrument locatable in time and, in Articles 76 paragraph (2) and 78, a forum able to examine the measure. Article 71 paragraph (5) places the losses arising from an annulled decision or action on the agency or official concerned, and Article 5 paragraphs (3) and (4) of Supreme Court Regulation 2/2019 allow the obligations a court imposes to carry rehabilitation and compensation, presupposing relief proportionate to the loss. Three indicators follow: an instrument that names the party, a forum able to examine independently, and a remedy commensurate with the loss.

The third parties at issue are defined by position, not conduct. They hold subsisting relationships with an operator, are not the subject of the administrative breach, and are not the addressee of the sanction, yet the measure reaches them through infrastructure they share with the addressee, and the loss they carry is collateral impact. Decision 424/2022 records the scale of that reach: 213 complaints gathered at a legal aid post over seven days (p. 21), wages and royalties received through PayPal by members of a journalists' association (p. 12), and a premium website tool an online news outlet could not renew (p. 12) (Achmad et al., 2024; Wiryawan et al., 2024). Those records come from complainants rather than judicial findings on quantum, and carry scale here and nothing more. Whether a legal obligation follows is a separate question, answered from norms.

The strongest objection denies the causal link. The government argued in Decision 424/2022 that the losses followed from the operators' own failure to comply with the registration obligation, so that any claim lay against those operators in the general courts (pp. 45–46). The argument has force: the breach was the operator's, and the relationships through which the loss was felt were private. Two considerations nonetheless separate loss from that breach. The party that determined access was the authority and network operators executed that instruction, so the measure that altered every user's position was public in character. The court also accepted jurisdiction over the measure as a governmental action (pp. 136–138) and treated the loss as real enough to found standing for the first three claimants (p. 143). The record deserves full statement: the court upheld the objection to the fourth claimant's standing (p. 164), and, having admitted the claim on that footing, did not treat the loss as displacing the sanctioning authority. The record supports the loss being traceable to a public measure, not that its incidence has been weighed (Wiryawan et al., 2024).

With the loss traceable to a public measure, the first limitation appears in recovery. Article 3 paragraph (1) of GR 43/1991 sets compensation in administrative court proceedings at not less than IDR 250,000 and not more than IDR 5,000,000, having regard to the actual circumstances (Ilmiyah, 2023). Article 3 paragraph (2) fixes the sum awarded, which does not change however long the interval between judgment and payment, so the figure carries no adjustment for the erosion of its value. Article 2 charges the payment to the state or regional budget, and Article 4 leaves the manner of payment to a further ministerial regulation, so that satisfaction depends on a budgetary process rather than on the judgment alone (Ridwan HR, 2018). Decision 424/2022 records two claimants whose inaccessible digital assets were valued at IDR 71,755,783 and IDR 8,474,942 (p. 9, considered at p. 143). The first exceeds the ceiling roughly fourteen times over; the second, far smaller, still exceeds it by some seventy percent. The comparison sets recorded figures against a normative maximum and fixes no entitlement. Its significance lies in the range rather than the extreme, since a ceiling already passed by the smallest recorded holding binds across the class rather than at its upper end alone.

A serious objection answers that compensation is not the measure of protection. A claim of unlawful act by a government body carries a demand to declare the action invalid or void under Article 1 point 4 of Supreme Court Regulation 2/2019, Article 5 paragraph (2) allows a court to require an official to perform, refrain from, or discontinue a governmental action, and paragraph (3) allows that obligation to carry rehabilitation and compensation, rehabilitation being defined by paragraph (4) as restoring the claimant's rights to the position preceding the action (Ilmiyah, 2023). On that reading the path remains open, the ceiling constrains one head of relief, and protection lies in an order to restore access, where this jurisdiction is strongest (Ashar & Dadek, 2026). The reading is accurate as far as it reaches. Restoration returns access going forward; it does not return a payment window that closed, a licence already lost, or a subscription term that expired. For losses of that kind the capped head is the only head available.

The second limitation reaches even that capped head. Article 116 paragraphs (4) to (6) of Law 51/2009 does provide coercive means: an official unwilling to comply with a final judgment is subject to a penalty payment and administrative sanction, is announced in the local print media, and is reported to the President and the legislature. Doctrine records that this apparatus entered positive law only in 2004 and leaves unresolved whether the penalty payment falls on the official personally or on the institution, an official having until then borne no liability toward third parties at all (Ridwan HR, 2018). Paragraph (7) leaves the amount of that payment and the manner of its execution to a further regulation, never issued, so penalty payments and compensation ordered against the treasury are recorded as illusory and dependent in practice on voluntary compliance (Ahmad et al., 2024; Ashar & Dadek, 2026). The two limitations compound. The recoverable value is capped by a norm of 1991 and is not reliably collectible, so a claimant who succeeds entirely holds a judgment small in economic content and dependent on voluntary compliance.

Normalisation invites two readings, and both deserve statement. Decision 424/2022 records that access to PayPal was opened temporarily on 31 July 2022, after public protest, so that users could migrate funds (p. 21; testimony at p. 123), and that Valve's services and Yahoo were normalised on 2 August 2022 (p. 159). Read one way, correction operated faster than any judicial remedy could, suggesting the repressive phase functions well and needs no supplement. Read another way, Article 7 paragraph (4) of Ministerial Regulation 5/2020 keys normalisation to the operator's completion of registration, so the trigger lies in the addressee's compliance, and the one opening that answered the burdened parties directly was temporary and left the measure otherwise in force. Restoration keyed to compliance returns access without reaching value already lost. The balance indicates a mechanism responsive to the addressee and structurally unresponsive to those the addressee's default carried with it.

The third limitation lies in the administrative remedy preceding the court. Articles 76 to 78 of Law 30/2014 provide objection to the deciding official and administrative appeal to that official's superior, forming a self-correction mechanism through which the administration may reconsider both expediency and legality (Ashar & Dadek, 2026), and Article 2 paragraph (2) of Supreme Court Regulation 2/2019 makes exhaustion of that mechanism a condition of access to the court. A second objection follows. If both layers are available and were designed for this purpose, contestability already exists and no further standard is required. The claimants in Decision 424/2022 lodged an objection with the Minister on 25 August 2022 and an administrative appeal with the President on 23 September 2022 (p. 6, recorded by the court at p. 138). Both were answered, the Minister on 31 October 2022 and the President on 9 November 2022, and neither answer altered the measure (p. 138), the claim being rejected in full at first instance (p. 164).

One documented sequence cannot characterise a channel, and the weight rests on what explains it. Objection is examined inside the same command chain that issued the order, so reviewer and author sit inside one structure, and disharmony among the governing instruments leaves even the mandatory character of the mechanism unsettled (Desiana & Abdussamad, 2026). The contestability actually available is correspondingly low (Dwiarnanto & Barthos, 2025). Beneath both lies the first indicator, since the execution left no written instrument directed to the parties the measure burdens, the order having travelled as a list sent by electronic mail and entered in the national blocking register (Decision 424/2022, pp. 125–126; Gobel & Muhtar, 2026), while Article 77 paragraph (1) runs its period from the announcement of a Decision, so a class never named must first establish the action, its date, and its author before any period for objection can run.

A further objection questions the class rather than the mechanism. Administrative law addresses sanctions to the regulated entity by design, and extending procedural duties to everyone in a contractual relationship with that entity would dissolve the concept of addressee altogether. The objection would hold if the class were defined by contract. It is defined instead by the reach of the measure through shared infrastructure, determinate at execution and known to the authority that selects it, since terminating access at domain level rather than content level is what fixes the set of parties affected (Adhari et al., 2021).

Measured against the three indicators, the repressive path holds for the addressee and thins for the class beside it. No instrument names that class; the forum it must use first sits inside the structure that acted; and the remedy it may obtain is capped and difficult to enforce. Two are structural rather than implementational in the precise sense that no official deciding a particular case can supply them: a compensation figure fixed in 1991, expressly immune under Article 3 paragraph (2) of that regulation to any adjustment for the lapse of time before payment, and never replaced by the regulation Article 72 paragraph (2) of Law 30/2014 contemplates (Ilmiyah, 2023), and a delegated regulation under Article 116 paragraph (7) of Law 51/2009 that has never been issued. The first indicator differs in kind: an authority could name the affected class in an instrument without legislative change, and that curability makes it a candidate for regulatory refinement rather than a permanent feature.

Each limitation has been recorded before. The compensation ceiling is documented in work on remedies (Ilmiyah, 2023), the execution gap in work on enforcement against the state (Ahmad et al., 2024; Ashar & Dadek, 2026), and the objection channel in work on administrative remedy (Desiana & Abdussamad, 2026; Wiryawan, 2023). What has not yet been drawn is their joint effect. Taken singly, each reads as a defect in a procedure and invites procedural repair. Measured together against one set of indicators, they describe a class the system can hear but cannot compensate and cannot reach before the loss occurs. The same pattern recurs wherever a sanction reaches its target through infrastructure that target shares with others.

A doctrinal consequence follows, with its limits. Where the phase after action restores access but not value, protection that remains meaningful has to be located earlier. That is a shift of weight, not a denial that repressive protection is valid, and the qualification that opened the path stands. Article 28D paragraph (1) of the 1945 Constitution frames the reason: legal certainty that is just is not satisfied by a forum reachable only after a loss it cannot repair (Hariansah & Qhistina, 2026). The shift is conditional, and it fails if the earlier phase can hold nothing more than an exhortation. It carries only if that phase can bear a standard precise enough for an official to apply and a court to review, and the general principles of good governance are the only ground of review there (Ikhsan & Sulastri, 2025).

### Constructing the Principle of Due Care as a Preventive Protection Standard

The weight that shifts to the phase before action has to land on something. The absence of an instrument is itself anomalous, since doctrine treats the execution of an administrative sanction as a burdening decision, a *belastende beschikking* (Hadjon, 2011). A measure leaving no written instrument carries no statement of considerations, so nothing internal to it records what was weighed, and its standard has to be supplied from outside it. Article 10 paragraph (1) letter d of Law 30/2014 names due care, and its Elucidation requires an official to act on complete information and documents and to prepare the measure carefully before taking it, read along a formal dimension covering the gathering of facts and the hearing of those concerned, and a material dimension covering the rationality of what was weighed, a distinction the literature draws precisely because it bears on legal protection (Ridwan HR, 2018; Yulida et al., 2022). The formal dimension governs how a basis is assembled, the material dimension what it must contain. One component is proposed under each.

Content begins with a distinction the term obscures. Technical accuracy concerns whether a system correctly matches a domain against a register or flags material against a pattern. Administrative due care concerns whether the official went beyond that finding and verified three things: the factual position, meaning the scale of disruption; the legal basis, meaning whether it authorises termination at system level or only for specific material; and the target, meaning whether the measure disables the entity in default without touching the property of those who are not (Adhari et al., 2021; Silalahi & Putri, 2025). Doctrine places the third at the centre where the measure is a sanction: because the execution of an administrative sanction operates as a burdening decision, due care requires the authority to establish with precision the points at which a party is to be regarded as in default, and, except where no postponement can be defended, to give that party an opportunity to state its position beforehand (Hadjon, 2011). A system can be accurate on all three while none has been verified.

The first component, meaningful human review, follows under the formal dimension. Doctrine urges manual verification of social facts as the proper manifestation of due care, so an official does not rest on an automated finding without verifying the actual position (Yulida et al., 2022). The technical record supports treating such findings as recommendations rather than determinations, since layered detection automates 80 to 85 percent of search and inspection at accuracies of 85 percent for visual and 75 percent for textual material (Fahririn et al., 2024). Legally, delegating execution to a system does not discharge the administrative authority, and errors from automated execution must count as breaches of administrative due care rather than mere technical malfunctions (Silalahi & Putri, 2025).

An objection is that the component adds nothing. An official already authorises execution, so a human is already in the process, and requiring meaningful human review restates what happens. The objection is accurate about the fact and inaccurate about its significance. Authorisation is a decision to execute; verification is an examination of the basis on which execution is decided. The two coincide only when the authorising official has examined something, and nothing in the act of authorising shows whether that occurred. What separates them is evidentiary: a record of what was verified. Without such a record, human presence cannot be distinguished from confirmation of a recommendation known to carry a rate of error (Fahririn et al., 2024).

That indicator would make it reviewable rather than aspirational. A court testing due care would not need to evaluate a detection model, nor a claimant to obtain one; the question takes the familiar form of asking what the file shows, here which facts the official examined before authorising. The claim is directed at an omission by the official rather than at the accuracy of the code (Asimah & Erliyana, 2025; Silalahi & Putri, 2025). The problem is not confined to Indonesian law, since it may arise wherever an authority acts on a recommendation it did not produce, which is why the Dutch origin of the principle supplies conceptual corroboration rather than an imported rule (Amirullah et al., 2025; Tungga, 2025).

The second component, mitigation of collateral impact on third parties, follows under the material dimension, and its placement needs a word. A duty to weigh how far a measure spreads sits close to the principle of expediency under Article 10 paragraph (1) letter b, whose Elucidation requires benefit to be balanced across enumerated pairs of interests, among them the interest of the individual against that of the community. It belongs within due care because that dimension asks whether the basis the official acted on was complete, and a basis omitting who the measure reaches is incomplete in the ordinary sense. Doctrine supports the placement directly. Due care requires an authority to weigh carefully all facts and circumstances bearing on the substance of a measure, to hear and weigh the reasons advanced by interested parties, and to take into account the legal consequences the measure will produce, so that it does not cause loss to citizens; an authority that has not examined all the relevant facts, or has not brought all the relevant interests into its consideration, has not acted with due care (Ridwan HR, 2018). What the material dimension adds here is the reach of the measure as one of those relevant interests. Case material was pressed to the same effect, though its status must be stated exactly: the claimants argued from Supreme Court jurisprudence that due care obliges an authority to obtain a clear picture of all relevant legal facts and the rules underlying them, and to have regard to the interests of third parties so that citizens are not harmed (Decision 424/2022, p. 29). That passage is a pleading, not a holding; the court did not adopt it, and it is reported here as the formulation in contest.

Two indicators would make it testable: a record identifying the class the measure will reach, and a record of the less restrictive options considered and why they were set aside. Law 30/2014 already separates two duties preceding action: Article 7 paragraph (2) letter f obliges an official to give citizens an opportunity to be heard before deciding or acting, and Article 46 paragraph (1) obliges the authority to socialise the legal basis, requirements, documents, and related facts to the parties involved before a measure that may burden citizens. Doctrine grounds these procedural demands more broadly in the principle of due care and AUPB as normative standards for administrative action (Ikhsan & Sulastri, 2025; Yulida et al., 2022), while the more specific proposition that prior notice is owed to the affected public rather than settled between an authority and a corporation was put to the court by the claimants' expert, who read both provisions as reaching users as interested citizens (Decision 424/2022, pp. 111–114); that is expert testimony offered by one party, not a judicial finding. No right to individual notification is claimed. An objection presses: both indicators ask the administration to write something down, and recording that an impact was considered does not reduce it.

The objection identifies what a procedural standard is and mistakes it for what it does. A duty to identify the affected class requires the identification to be performed, and an authority that has established who will lose access holds information a proportionate choice needs and otherwise lacks. Doctrine already attaches an investigative duty of that kind to coercive administrative measures, requiring a sufficiently careful inquiry before the measure is decided upon and a written order issued (Hadjon, 2011). Where the material dimension is unmet, the action carries a defect furnishing a ground of review, since an action resting on an incomplete basis departs from the due care named in Article 10 paragraph (1) letter d of Law No. 30/2014 and defined in its Elucidation, a defect of that order being a ground of annulment under Article 71 paragraph (1) letter a whatever the outcome (Windyaningrum et al., 2026; Yulida et al., 2022). The force of that consequence does not depend on the compensation available afterwards, because a standard operating before the event is measured by the losses it prevents rather than those it repairs.

Two features of the arrangement look like answers, each carrying a second reading. Ministerial Regulation 5/2020 moves through written reprimand and temporary suspension before access termination for the breaches listed in Article 7 paragraph (3), which reads as proportionality already in place (Adhari et al., 2021); read again, that sequence escalates with the persistence of the operator's default rather than with the number of parties a step reaches, and it does not govern the breach at issue here, since Article 7 paragraph (2) attaches access termination directly to a failure to register. Decision 424/2022 found due care satisfied because the obligation and its sanction had been disseminated to supervising ministries and agencies, associations, operators, and the public before execution (p. 162), which reads as the standard already met; read again, what the court recorded as disseminated was the registration obligation owed by operators, and the fourth prayer of the claim, that the authority be ordered not to terminate access without prior proper notice to third parties, was refused at first instance and at each level above without being separately reasoned (the prayer is recorded at Decision 388 K/TUN/TF/2024, p. 2; refusal at Decision 424/2022, p. 164, Decision

218/B/TF/2023/PT.TUN.JKT, pp. 8–9, and Decision 388 K/TUN/TF/2024, p. 6). Both findings stand, and adding a dimension prospectively is consistent with them.

The strongest objection is practical. Requiring documented verification and an identified affected class before every measure would burden an administration handling content at a volume of millions, a concern reflected in the government's prioritisation of the highest-traffic services in Decision 424/2022 (p. 67, and the standard operating procedure listed at p. 94), while selective filtering limitations often leave system-level termination as the feasible instrument (Adhari et al., 2021). The objection holds against a duty attached to routine filtering, and none is proposed. The proposed duty attaches to measures terminating access to an entire system rather than specific material, a class distinguished by the level at which the measure operates and identifiable in advance. Institutional efficiency is a legitimate value, preserved by confining the duty to that class rather than declining to formulate one.

Four matters remain outside this construction by choice. Forensic algorithmic auditing, evidentiary procedure for algorithmic decision-making, algorithmic impact assessment, and the quantification of loss with any mechanism for compensation from the state budget are excluded from this construction to preserve its narrower focus, although those matters are discussed in the literature relied on (Dikrurahman & Abdullah, 2025; Gobel & Muhtar, 2026; Said et al., 2024). What is claimed is narrower. Because repressive legal protection is limited by structural rather than implementational barriers, the principle of due care governing the preventive phase has to carry more weight, and it can do so only in a form an official can satisfy on the file and a court examine there, grounded in just legal certainty under Article 28D paragraph (1) of the 1945 Constitution (Hariansah & Qhistina, 2026). Whether that form should bind, and through which instrument, is the question that follows.

## CONCLUSION AND RECOMMENDATIONS

### CONCLUSION

Repressive legal protection reaches third parties weakly by design rather than application. Contestability asks for an instrument naming the burdened party, a forum able to examine independently, and a remedy commensurate with the loss; access termination at domain level meets none of the three. No instrument is addressed to the parties a measure carries with it, the order having travelled as a list entered in the national blocking register. The objection channel they must exhaust first is examined inside the command chain that issued the order, and the objection and appeal lodged in 2022 were answered without the measure being altered. The compensation ceiling of IDR 5,000,000 under GR 43/1991 is exceeded even by the smallest digital holding recorded in Decision 424/2022, while the coercive means of Article 116 paragraphs (4) to (6) of Law 51/2009 cannot be operated, the amount and procedure delegated by paragraph (7) never having been regulated. Both are structural rather than implementational in the sense that matters here, since neither a figure fixed in 1991 nor a delegated regulation never issued can be supplied by an official in a particular case. The absence of an instrument differs in kind, because an administration could name the affected class without legislative change.

Recovery after the event is therefore not worthless, but it cannot carry protection alone, and preventive legal protection has to take the rest. The principle of due care can take it from within Article 10 paragraph (1) letter d of Law 30/2014 and its Elucidation rather than from outside. Its formal dimension yields meaningful human review, separated from the presence of an authorising official by a record of what was examined before authorisation. Its material dimension yields mitigation of collateral impact on third parties, made testable by a record identifying the class a measure will reach and the less restrictive alternatives set aside. Both are procedural and both do work, since an identification that must be performed produces information a proportionate choice requires and an authority otherwise lacks. Both are advanced *de lege ferenda*, and neither disturbs the finding in

Decision 424/2022, which tested the procedure preceding execution and the dissemination of the registration obligation on the material before it (pp. 157–158, 162). Neither the limitation nor the standard is peculiar to digital regulation, since both arise wherever a sanction operates on infrastructure its target shares with others.

## RECOMMENDATIONS

Room for refinement exists in the implementing regulations. GR 71/2019 and Ministerial Regulation 5/2020 could be developed to require, before access is terminated under Article 7 paragraph (2) at the level of an entire system rather than specific material, a written record identifying the parties the measure will reach and the graduated alternatives set aside. A channel through which those parties may contest a measure before execution belongs to the same reform, although its design lies beyond what the available material supports and is offered only as *ius constituendum*.

Internal procedure could document verification. Where an automated system supplies a finding, the file of the authorising official could record which facts were examined and on what material, so that compliance with due care can be shown if later questioned. Nothing in this asks an authority to disclose detection models, and nothing attaches to routine filtering, since the requirement follows the measure rather than the volume processed.

Courts examining comparable disputes could weigh both components alongside the compliance testing already performed, treating the presence or absence of such records as evidence going to due care rather than as a separate ground of review. Four matters set aside here remain open: forensic auditing of detection systems, the adaptation of evidentiary procedure to automated findings, algorithmic impact assessment, and the quantification of loss with any mechanism for compensation from public funds. Until those are settled, the safer course places the burden where it can presently be met, on the record an official makes before acting rather than the remedy a claimant pursues afterwards.

## REFERENCES

Peraturan Pemerintah Nomor 43 Tahun 1991 tentang Ganti Rugi dan Tata Cara Pelaksanaannya pada Peradilan Tata Usaha Negara, ditetapkan 5 Juli 1991.

Peraturan Pemerintah Nomor 71 Tahun 2019 tentang Penyelenggaraan Sistem dan Transaksi Elektronik, Lembaran Negara Republik Indonesia Tahun 2019 Nomor 185, Tambahan Lembaran Negara Republik Indonesia Nomor 6400.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Peraturan Mahkamah Agung Republik Indonesia Nomor 2 Tahun 2019 tentang Pedoman Penyelesaian Sengketa Tindakan Pemerintahan dan Kewenangan Mengadili Perbuatan Melanggar Hukum oleh Badan dan/atau Pejabat Pemerintahan (Onrechtmatige Overheidsdaad), Berita Negara Republik Indonesia Tahun 2019 Nomor 940.

Peraturan Menteri Komunikasi dan Informatika Nomor 5 Tahun 2020 tentang Penyelenggara Sistem Elektronik Lingkup Privat, Berita Negara Republik Indonesia Tahun 2020 Nomor 1376.

Putusan Mahkamah Agung Republik Indonesia Nomor 388 K/TUN/TF/2024, 18 September 2024.

Putusan Pengadilan Tata Usaha Negara Jakarta Nomor 424/G/TF/2022/PTUN.JKT, 16 Mei 2023.

Putusan Pengadilan Tinggi Tata Usaha Negara Jakarta Nomor 218/B/TF/2023/PT.TUN.JKT, 9 Oktober 2023.

Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, Lembaran Negara Republik Indonesia Tahun 2014 Nomor 292, Tambahan Lembaran Negara Republik Indonesia Nomor 5601.

Undang-Undang Nomor 51 Tahun 2009 tentang Perubahan Kedua atas Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 160, Tambahan Lembaran Negara Republik Indonesia Nomor 5079.

SECONDARY SOURCES

Achmad, R., Istislam, I., & Al Uyun, D. (2024). The termination access of unregistered private scope electronic system operators in human rights perspective. International Journal of Humanities Education and Social Sciences (IJHESS), 3(6), 2969–2977. https://doi.org/10.55227/ijhess.v3i6.1003

Adhari, A., Sitabuana, T. H., & Srihandayani, L. (2021). Kebijakan pembatasan internet di Indonesia: Perspektif negara hukum, hak asasi manusia, dan kajian perbandingan. Jurnal Konstitusi, 18(2), 262–293. https://doi.org/10.31078/jk1821

Ahmad, A., Putri, V. S., & Muhtar, M. H. (2024). Antara otoritas dan otonomi: Pertautan hak asasi manusia dalam praktik eksekusi putusan PTUN. Jurnal Konstitusi, 21(3), 392–412. https://doi.org/10.31078/jk2133

Amirullah, Bhakti, R. T. A., Maileni, D. A., & Riyanto, A. (2025). Consumer protection in electronic transactions: Normative gaps and legislative reform in Indonesian digital commerce law. Jurnal Cakrawala Hukum, 16(2), 97–112. https://doi.org/10.26905/idjch.v16i2.15646

Ashar, D., & Dadek, T. A. (2026). Pertanggungjawaban negara atas perbuatan melawan hukum oleh pejabat pemerintahan (onrechtmatige overheidsdaad) dalam sistem hukum administrasi Indonesia. Unes Journal of Swara Justisia, 10(1), 55–67. https://www.swarajustisia.unespadang.ac.id/UJSJ/article/view/789

Asimah, D., & Erliyana, A. (2025). The concept and legal protection regarding government administrative actions in the form of not performing concrete actions (omission). Jurnal IUS Kajian Hukum dan Keadilan, 13(3), 708–733. https://doi.org/10.29303/ius.v13i3.1520

Ayu, R. O. (2025). Tantangan penerapan konsep negara hukum dalam era digital: Studi kasus UU ITE dan kebebasan berekspresi. Jurnal Pengabdian Masyarakat dan Riset Pendidikan, 3(4), 732–739. https://doi.org/10.31004/jerkin.v3i4.893

Bedner, A. (2013). Indonesian legal scholarship and jurisprudence as an obstacle for transplanting legal institutions. Hague Journal on the Rule of Law, 5(2), 253–273. https://doi.org/10.1017/S1876404512001145

Bimasakti, M. A. (2018). Onrechtmatig overheidsdaad oleh pemerintah dari sudut pandang Undang-Undang Administrasi Pemerintahan. Jurnal Hukum Peratun, 1(2), 265–286. https://doi.org/10.25216/peratun.122018.265-286

Desiana, W., & Abdussamad, Z. (2026). Reconstructing administrative remedies from the perspective of administrative justice principles and legal certainty. Journal of Public Representative and Society Provision, 6(1), 256–274. https://doi.org/10.55885/jprsp.v6i1.841

Dikrurahman, D., & Abdullah, A. (2025). Regulating AI-generated content: A comparative study of digital rights and algorithmic accountability in Indonesia. Advances in Social Humanities Research, 3(12), 954–983. https://doi.org/10.46799/adv.v3i12.529

Dwiarnanto, A., & Barthos, M. (2025). Video streaming platforms' responsibilities for repeated copyright infringement and notice and take down mechanisms. Greenation International Journal of Law and Social Sciences, 3(3), 1074–1083. https://doi.org/10.38035/gijlss.v3i3.595

Fahririn, Santosa, C. H., & Maulana, M. I. (2024). Implementation of artificial intelligence by Kominfo in the enforcement of pornographic content on social media Twitter (X). Walisongo Law Review (Walrev), 6(2), 109–121. https://doi.org/10.21580/walrev.2024.6.2.25737

Gobel, R. T. S., & Muhtar, M. H. (2026). Menjinakkan kekuasaan tak kasat mata: Telaah konstitusional dan model judicial review digital di Indonesia. Konferensi Nasional Asosiasi Pengajar

Hukum Tata Negara dan Hukum Administrasi Negara, 3(1), 281–300. https://doi.org/10.55292/edgatf46

Hadjon, P. M. (2011). Pengantar hukum administrasi Indonesia (Cet. ke-11). Gadjah Mada University Press.

Harahap, Z. A. A. (2025). Reconstruction of online gambling sanctions in Indonesia: A comparative analysis of ta'zir sanctions and penalties of the Electronic Information and Transaction Law. Al-Istinbath: Jurnal Hukum Islam, 10(1), 130–153. https://doi.org/10.29240/jhi.v10i1.11314

Hariansah, S., & Qhistina, L. (2026). Toward algorithmic due process: Constitutional challenges and human rights risks in Indonesia's digital state. Jurnal Pembangunan Hukum Indonesia, 8(1), 25–45. https://doi.org/10.14710/jphi.v8i1.25-25

Ikhsan, F., & Sulastri, D. (2025). Kedudukan asas-asas umum pemerintahan yang baik (AUPB) sebagai tolok ukur normatif atas keputusan Pengadilan Tata Usaha Negara dalam mewujudkan reformasi yudisial. Qanuniya: Jurnal Ilmu Hukum, 2(2), 1–16. https://doi.org/10.15575/qanuniya.v2i2.1796

Ilmiyah, Z. (2023). Rekontekstualisasi konsep tindakan pemerintah dalam memberikan kepastian hukum gugatan onrechtmatige overheidsdaad. IBLAM Law Review, 3(2), 198–210. https://doi.org/10.52249/ilr.v3i2.303

Lestari, A. D., Syahuri, T., & Thohari, A. A. (2025). Restrictions on judicial review rights for state administrative officials: A critical perspective on Constitutional Court Decision No. 24/PUU-XXII/2024. International Journal of Law, Crime and Justice, 2(3), 1–14. https://doi.org/10.62951/ijlcj.v2i3.688

Makarim, E., Brata, M., & Arsyafira, N. (2019). Limitation of rights as a manifestation of duties and responsibilities pertaining to the freedom expression in digital communications. Indonesia Law Review, 9(3), 278–295. https://doi.org/10.15742/ilrev.v9n3.586

Ridwan HR. (2018). Hukum administrasi negara (Ed. rev.). RajaGrafindo Persada.

Ridwan. (2021). Resolution of disputes regarding unlawful acts by the government in the administrative justice system in Indonesia. Academic Journal of Interdisciplinary Studies, 10(6), 264–274. https://doi.org/10.36941/ajis-2021-0170

Said, A., Herawati, R., & Sulistiani, S. (2024). Development of regulations on factual actions post-law on government administration: 2024 election process dispute study in casu Prima Political Party. Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam, 15(1), 46–59. https://doi.org/10.21043/yudisia.v15i1.22110

Silalahi, W., & Putri, M. (2025). Tanggung jawab administrasi pemerintah dalam era digital: Analisis implementasi sistem OSS-RBA dalam penyelenggaraan perizinan berbasis risiko. Majelis: Jurnal Hukum Indonesia, 2(4), 206–218. https://doi.org/10.62383/majelis.v2i4.1284

Tungga, B. (2025). Urgency of strengthening the general principles of good governance (AUPB) to enforce health administrative law in Indonesia. Audito Comparative Law Journal (ACLJ), 6(3), 146–160. https://doi.org/10.22219/aclj.v6i3.41696

Windyaningrum, Z., Tamzil, V. E., Moningka, F. E., & Betrandus, J. (2026). Analisis asas kecermatan dalam proses penjatuhan hukuman disiplin PNS akibat perselingkuhan: Studi Putusan PTUN Nomor 178/G/2025/PTUN.JKT. Jurnal Ilmu Hukum, Humaniora dan Politik, 6(4), 2669–2676. https://doi.org/10.38035/jihhp.v6i4.8309

Wiryawan, R. A. (2023). Hak warga masyarakat terhadap kebijakan pemutusan akses penyelenggara sistem elektronik lingkup privat yang tidak terdaftar. Jurnal Hukum & Pembangunan, 53(4). https://doi.org/10.21143/jhp.vol53.no4.1533

Wiryawan, R. A., Istislam, I., & Al Uyun, D. (2024). Legal protection for citizens affected by the termination of access policy of unregistered private scope electronic system operators.

International Journal of Business, Law, and Education, 5(1), 1422–1431. https://doi.org/10.56442/ijble.v5i1.574

Yulida, D., Utama, K. W., & Nugraha, X. (2022). Verifikasi manual manifestasi asas kecermatan sebagai batu uji terhadap keputusan tata usaha negara. Jurnal USM Law Review, 5(1), 31–48. https://doi.org/10.26623/julr.v5i1.4600

Zamroni, M. (2021). Hukum administrasi negara. Delta Pijar Khatulistiwa.