

Legal Protection for Housing Developers under Protected Rice Field Policy

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ABSTRACT

This research examines the legal implications arising from the unilateral conversion of land ownership status into Protected Rice Fields (Lahan Sawah Dilindungi or LSD) in Madiun Regency following the issuance of the Decree of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency (Decree of the Minister of ATR/BPN) Number 1589/SK-HK.02.01/XII/2021 of 2021. The designation creates legal uncertainty for housing developers who had previously obtained legal land rights based on Regional Regulation Number 9 of 2011 concerning the Spatial Plan of Madiun Regency for 2009–2029. The absence of synchronization between the LSD policy and the Regional Spatial Plan (RTRW) generates normative inconsistencies, resulting in legal and economic losses for developers. This study, therefore, seeks to analyze the legal status of the LSD designation and the forms of legal protection available for affected developers. Using a normative juridical method with statute, conceptual, and case approaches, the research analyzes primary, secondary, and tertiary legal materials through descriptive-analytical techniques employing grammatical and systematic interpretation. The findings show that the legal position of the Ministerial Decree is problematic in both authority and hierarchy. Although the Ministry of ATR/BPN possesses attributive authority to establish LSD, implementing such designation without harmonization with regional spatial planning constitutes an overextension of authority and ignores decentralization principles. As a result, the decree holds weak normative force and should be considered an administrative policy requiring alignment with regional regulations. Furthermore, legal protection for developers may be provided preventively through regulatory harmonization between RTRW and LSD policies, and repressively through administrative remedies or judicial review before the Administrative Court (PTUN), including claims based on on-rechtmatige overheidsdaad.

Keywords: Protected Rice Fields (LSD), spatial planning, legal protection, administrative law, land-use conflict, ATR/BPN.

1. INTRODUCTION

Indonesia is a country rich in natural resources, which are a major attraction for business actors to carry out production and investment activities. This natural wealth serves as important capital in supporting national development which aims to realize material and spiritual well-being equally for all Indonesian people. One strategic sector in development is the provision of adequate housing, considering that housing is not only a basic need, but also a constitutional right as stated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. To realize this right, collaboration between the government, the community, and business actors, including housing developers, is essential in ensuring the availability of safe, healthy, and affordable housing. Land availability plays a vital role in the success of housing development. In addition to



being the main basis for agricultural activities, land is also the foundation for settlements and the development of commercial facilities. Land serves as a space for humans to carry out various life activities, providing means of livelihood and shelter. However, land is a limited resource because the surface area of the earth does not increase, while human needs continue to increase. This condition makes land a resource that is increasingly valuable and prone to conflicts over its use.

Land use is generally divided into two categories: agricultural and non-agricultural. Agricultural land is used for food production, while non-agricultural land is allocated for residential and other economic activities. Population growth and rapid development have increased the demand for land, resulting in agricultural land often being converted. The conversion of agricultural land, particularly rice paddies, to other uses has become a common phenomenon, triggering the emergence of an imbalance between development needs and the national food security agenda. Land limitations have forced the government to intervene through spatial planning, as stipulated in Law Number 26 of 2007 concerning Spatial Planning. Spatial planning is a system encompassing the planning, utilization, and control of spatial use, which must be coordinated at the national and regional levels. If development is not in line with spatial planning, there is the potential for conflicts in spatial use, overlapping land uses, uncontrolled land conversion, and environmental damage that threaten the sustainability of development. (Asshiddiqie, 2006)

One of the serious impacts of uncontrolled land conversion is the reduction of productive agricultural land, which has the potential to threaten national food security. The reduction in rice fields not only increases food prices but also results in the loss of farmers' livelihoods and worsens the socio-economic conditions of rural communities. The government then issued Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land (LP2B) as an effort to curb the rate of agricultural land conversion and maintain the sustainability of national food production. However, the implementation of the LP2B Law has not been effective, as shown by data from the Central Statistics Agency, which states that the area of rice fields has decreased significantly from 7.75 million hectares in 2017 to 7.1 million hectares in 2018. To strengthen control of land conversion, the government then issued Presidential Regulation Number 59 of 2019, which aims to accelerate the determination of Protected Rice Field (LSD) maps as an instrument for controlling land conversion. This policy forms the basis for the issuance of Decree of the Minister of ATR/BPN Number 1589/SK-HK.02.01/XII/2021 concerning the determination of LSD maps in eight provinces, including East Java.



In Madiun Regency, the LSD determination through the Decree of the Minister of ATR/BPN covers an area of 30,662.61 hectares and directly impacts the Madiun Regency Spatial Plan (RTRW), which was previously stipulated through Regional Regulation Number 9 of 2011. The lack of synchronization between the LSD determination and the RTRW raises normative issues, particularly for housing developers who have legally obtained land rights in accordance with the applicable spatial planning designation. Due to the sudden change in land status from a yellow zone to an agricultural area (green zone), developers experience economic losses and legal uncertainty. In addition to the unilateral status change, weaknesses in the LSD implementation are also caused by the determination process, which does not involve comprehensive field verification. The central government only uses satellite imagery data without comparing it with physical conditions on the ground. As a result, a number of lands no longer functioning as rice fields remain included as part of the LSD map. This creates a mismatch between the LSD determination and the RTRW and increases the administrative burden for developers who must submit land use change recommendations directly to the Ministry of ATR/BPN in Jakarta, a lengthy, expensive, and inefficient procedure.

Weaknesses in the verification and determination of the LSD are further exacerbated by minimal public participation, including among housing developers, in data harmonization and field validation. The absence of consultation has led to the LSD determination being perceived as a unilateral policy that fails to consider the interests of affected parties. In fact, the principle of participation is a crucial element in spatial planning and land use control policies to ensure that decisions are truly aligned with the social, economic, and ecological conditions of the region. The lack of synchronization between the LSD determination policy and the Spatial Plan (RTRW) not only disrupts legal certainty but also potentially violates land ownership rights, as protected by Article 28H of the 1945 Constitution of the Republic of Indonesia. Developers who have obtained building use rights certificates and legally control land are entitled to protection from sudden and detrimental policy changes. Therefore, it is crucial to ensure that the LSD determination does not negate the constitutional and civil rights of business actors who have acted in accordance with the law.

On the other hand, Law Number 8 of 1999 concerning Consumer Protection also provides business actors with the right to receive fair treatment in conducting business activities. However, the LSD policy, implemented without procedural clarity and inadequate protection, places developers in a vulnerable position. Uncertain land status has hampered investment, reduced



market confidence, and increased the risk of construction failure and failure to deliver to consumers. All of these issues indicate that the LSD determination through Decree of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 1589 of 2021 has created various legal, administrative, and economic problems for housing developers. Regulatory inconsistencies, minimal field verification, and the absence of a clear protection mechanism demonstrate the need for a re-examination of this policy. Therefore, this research is crucial to examine the forms of legal protection for housing developers affected by the LSD determination and to ensure legal certainty to support sustainable national development. (Rahardjo, 2003)

2. RESEARCH METHODS

The research method used is Normative Juridical Research. The approach used in this research is carried out using the Legislative Approach method, the conceptual approach, and the case approach. Types and Sources of Legal Materials are Primary Legal Materials, Secondary Legal Materials and Tertiary Legal Materials. The legal material search technique uses Literature Study. Meanwhile, the legal material analysis technique is descriptive-analysis which is intended to describe or explain the related research object and then analyze it based on relevant laws and regulations or legal concepts. (Sutedi, 2015)

3. RESULTS AND DISCUSSION

Legal Status of the Policy on Determining Protected Rice Fields Through Decree of the Minister of ATR/BPN Number 1589/SK-HK.02.01/XII/2021 of 2021 Which is Not Harmonized with Regional Regulation Number 29 of 2011 Concerning the Madiun Regency RTRW for 2009-2029 (Marzuki, 2009)

The Protected Rice Fields (LSD) designation is a national legal instrument established by the central government to maintain the sustainability of agricultural land, particularly rice fields, which hold strategic value for national food security. Through this policy, the government seeks to curb the increasing rate of land conversion, which is driven by infrastructure and residential development. The LSD map is legally binding throughout Indonesia, including Madiun Regency, and therefore must be used as a guideline for controlling rice field use.

On the other hand, the Madiun Regency Government has established a Regional Regulation concerning the Regional Spatial Plan (RTRW) as the main guideline for regional development. The RTRW regulates the allocation of space for various sectors such as settlements,



housing, agriculture, and other sectors. This RTRW regulation is a legally binding regional instrument and serves as the basis for licensing the use of space for both the regional government and the community. In practice, a disharmony has emerged between the LSD Map established by the central government and the Madiun Regency RTRW Regulation. Several areas designated as residential areas or yellow zones according to the RTRW are actually categorized as rice fields that must be protected in the LSD map. Both instruments are equally valid, but provide different regulations for the same land object, thus giving rise to conflicting norms and implementation confusion.

The process of determining the LSD itself begins with verifying data on rice paddy fields using satellite imagery, land data, spatial planning data, irrigation data, and forest area data. Clarification is then conducted with the local government before producing a proposed map that is synchronized by the Integrated Team. This map is then determined by the Minister of ATR/BPN as a reference for controlling rice paddy land conversion. However, the central government's determination of the LSD relies solely on satellite imagery without comprehensive field verification. This creates a discrepancy between the centrally prepared map and the actual conditions in the region. This discrepancy becomes even more apparent when compared with the Regional Spatial Plan (RTRW) Regulation, which is based on empirical surveys, technical studies, and planning deliberations.

The Spatial Plan (RTRW) as a regional regulatory instrument plays a crucial role in regulating regional spatial use, including the protection of sustainable agricultural land. The RTRW is designed to ensure sustainable development, spatial order, and a balance between development needs and environmental conservation. The rice field protection policy in the RTRW should ideally be integrated with national policy directions. However, in Madiun Regency, a significant discrepancy was found between the LSD area determined by the central government and the LP2B area stipulated in the regional RTRW. The central government has set the LSD at 31,000 hectares, while the RTRW Regional Regulation only designates 21,000 hectares as LP2B. This 10,000-hectare difference creates confusion because the two different instruments produce two incompatible land protection policies.

The Regional Spatial Planning (RTRW) regulation records a total of 32,000 hectares of standard rice fields, with 21,000 hectares designated as LP2B (Land Use Area) and 1,000 hectares subject to conversion. Meanwhile, the central government's policy, through the Land Use and Development Plan (LSD), covers almost all standard rice fields. This situation demonstrates the



difference in policy orientation between the central government, which seeks to expand land protection, and the regional government, which considers the needs of residential development. In spatial planning law theory, the RTRW is the primary instrument for regional spatial planning. However, the presence of a central government LSD policy with a broader scope creates conflicts of authority and legal uncertainty for land rights holders. Developers who refer to the RTRW zoning face obstacles because the land they purchase falls into the LSD category according to the central government's policy.

This disharmony impacts regional development planning. Developers who purchase land based on non-LP2B zoning face difficulties obtaining permits because the land is already included in the central LSD map. As a result, legal protection for developers is weakened, and the potential for financial losses increases. This situation hinders investment and weakens the business climate in the regions. The central government's policy of expanding the LSD is intended to strengthen national food security. However, without alignment with regional policies, this policy sacrifices legal certainty and land rights. Ultimately, this can create a conflict between the needs of residential development and the need for food security, both of which are crucial for national development. (Soekanto, 1984)

The discrepancy between the LSD map and the RTRW (Regional Spatial Plan) is not merely a technical mapping issue, but a fundamental problem in national land governance. Two different legal instruments—one established by the central government, the other by the regional government—regulate the same spatial object with conflicting provisions. This situation creates administrative confusion for both the government and the public. Regional governments and related agencies face a dilemma in determining which instrument should serve as the basis for licensing: whether to follow the RTRW, which is formally valid at the regional level, or to follow the LSD, which is central policy. Similarly, the private sector is trapped in a legal dualism that poses high risks in land acquisition and utilization. This lack of synchronization in spatial policies creates overlapping authority between agencies and opens up room for multiple interpretations in regulatory enforcement. Such administrative uncertainty has the potential to violate the principle of legal certainty and disrupt the order of spatial planning. The conflict between the LSD and the RTRW reflects the weak harmonization of regulations between the central and regional governments.

According to Gustav Radbruch's theory of legal certainty, law must encompass the values of justice, utility, and legal certainty. In the context of the LSD and RTRW, the value of legal



certainty is most compromised because the two different policies create uncertainty for land rights holders in determining their legal actions. When a plot of land is categorized as a yellow zone in the RTRW but as protected land in the LSD, rights holders cannot ensure the legality of their land use. This situation creates injustice because legally acquired rights can lose their function due to unsynchronized policies across levels of government. (Ridwan HR, 2018)

In principle, the preparation of the Regional Spatial Plan (RTRW) must involve the community. Public participation is a crucial requirement to ensure the legitimacy, effectiveness, and sustainability of spatial planning. Furthermore, the RTRW must be based on the Archipelago Concept and National Resilience, which prioritize environmental harmony, integrated resource utilization, and the protection of spatial functions. Spatial planning that is not aligned with national policies or actual conditions can lead to inefficient spatial use and degrade environmental quality. Although national spatial planning regulations have been well-developed, implementation in the regions often faces obstacles in the form of spatial conflicts, land conversion, and discrepancies between plans and the reality of spatial use. Ideally, the determination of the Regional Spatial Plan (LSD) follows the direction of the regional RTRW, which was previously prepared and has gone through the regional legislative process. However, reality shows that LSD policies are determined top-down without sufficient harmonization with the RTRW. This situation demonstrates weak vertical coordination between governments and indicates a potential violation of the principle of regional autonomy. The disharmony between central and regional policies in determining the LSD creates legal uncertainty, weakens the protection of land rights, and disrupts the investment climate in the regions. Therefore, comprehensive synchronization between LSD policies and RTRW is needed, as well as improvements to coordination mechanisms between levels of government so that spatial development takes place in a harmonious, fair, and sustainable manner.

Forms of Legal Protection for Housing Developers in the Event of Changes in Land Rights to Protected Rice Fields (Simanjuntak, 2018)

Legal issues arising from the unilateral change of land status to Protected Rice Fields (LSD) are a serious issue with widespread impacts on housing developers. The central government's determination of LSD, specifically through Decree of the Minister of ATR/BPN Number 1589/SK-HK.02.01/XII/2021, is based on a top-down approach that pays little attention to local factual conditions. In Madiun Regency, for example, the determination is often out of sync with the valid and legally binding district/city Spatial Plan (RTRW). This lack of synchronization creates legal and administrative obstacles in the housing development process, even though



developers have legally obtained land rights based on certificates issued by the BPN before the LSD determination.

In the context of national law, this condition reflects the existence of legal uncertainty that is contrary to the principle of legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution. This article emphasizes that everyone has the right to recognition, guarantees, protection, and fair legal certainty, including in land use activities. When developers have invested based on a legitimate licensing mechanism and have obtained formal legality over the land, unilaterally determining LSD without a legal protection mechanism actually violates the principle of a state based on the rule of law which requires protection of rights that have been inherent before the birth of a new policy.

According to the theory of legal protection developed by Philipus M. Hadjon, legal protection is divided into two forms: preventive and repressive. Preventive protection is *ex ante*, allowing interested parties to file objections before a decision is issued, while repressive protection is *ex post* through dispute resolution after losses have occurred. In the case of LSD determination, housing developers often lose access to preventive mechanisms because the central government unilaterally determines LSD maps without involving local governments or land rights owners. This results in developers losing the opportunity to prevent legal losses before the policy is implemented. (Sumardjono, 2009)

Preventive legal protection should be a key instrument in spatial planning and land policy given its significant impact on land use. In the context of LSD determination, preventive protection is crucial to ensure the involvement of land rights holders in policy processes that affect the legal status of their land. Hadjon emphasized that preventive protection empowers citizens to file objections before administrative decisions take effect, preventing government actions from potentially violating individual rights. However, this mechanism is practically unavailable in LSD determination because the central government does not provide space for participation before the decision is issued. (Harsono, 2003)

An analysis of the Decree of the Minister of ATR/BPN reveals a legal vacuum in terms of preventive protection for land rights holders. There is no mechanism for public consultation, objections, or formal coordination with local governments prior to the determination of the LSD map. In fact, land rights holders, particularly developers who have obtained land title certificates, are denied access to information regarding the LSD determination plan. This contradicts the principles of good governance, which require transparency, participation, and accountability in all



government actions. This legal vacuum is further glaring due to the absence of regulations specifically addressing legal protection for land rights holders affected by the LSD determination. In the context of the 1945 Constitution, the right to legal protection is a fundamental human right that cannot be ignored. Without an adequate regulatory framework, housing developers are the group most vulnerable to losses due to inconsistencies in spatial planning and land policies. This legal uncertainty also impacts the stability of investment in the property sector, a key driver of the national economy. (Hadjon, 1987)

Implementing preventive protection requires integrated coordination between the central and regional governments. Determining the Land Use Plan (LSD) without synchronizing with the regional Spatial Plan (RTRW) has the potential to create vertical conflicts within the national spatial planning system. The principle of legality requires that every government action be based on clear and consistent law, including adequate coordination to avoid harming parties who have obtained legitimate rights. However, the 2021 LSD determination demonstrates this lack of coordination. Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) Number 2 of 2024 attempts to fill this gap by providing a mechanism for verifying and determining LSD maps. However, this regulation fails to provide adequate preventive protection because it does not stipulate a mechanism for prior notification to land rights holders. The government only regulates technical procedures for verifying rice field data without granting the community the right to raise objections before the determination is made. This demonstrates the absence of the principle of due process of law in the regulation.

Legal uncertainty becomes even more apparent when land already certified for non-agricultural use is suddenly categorized as LSD. This situation arises because LSD determination data uses satellite imagery and indicative maps without adequate field verification. As a result, land already in use or allocated for housing development is considered active rice fields that must be protected. This triggers a conflict of interest between agricultural land protection policies and land rights for developers. Law No. 5 of 1960 concerning the Basic Agrarian Law (UUPA) serves as the legal basis for land rights in Indonesia, guaranteeing the protection of landowners' rights based on certificates. Government Regulation No. 24 of 1997 concerning Land Registration also emphasizes that land certificates are valid and strong evidence of legal status. When certified land is declared LSD without a process for changing rights or revising the certificate, a legal disharmony occurs, leading to unclear land status.



The process of resolving disputes regarding the determination of the Land Use Permit (LSD) without field verification creates the potential for violations of the rights of developers, consumers, and third parties. Without stakeholder involvement, this policy impacts not only the legality of the land but also the sustainability of developers' investments and the certainty of consumers who have ordered or purchased housing units. This situation can lead to potential defaults that are detrimental to both parties. In the context of preventive protection, the principle of proportionality is an important indicator for testing government authority. Determining the LSD based solely on spatial data without field verification can be deemed disproportionate to the impact on developers. The principle of proportionality requires that every government action be carried out with caution and consider all possible consequences in a rational and balanced manner.

Harmonization between central government policies and regional spatial plans (RTRW) is a fundamental requirement for implementing preventive protection. The regional RTRW is a legal instrument established through a lengthy process, including public consultation and central government approval. When central government policies, such as the establishment of the Regional Spatial Plan (LSD), do not take the RTRW into account, normative and administrative conflicts are inevitable. This is detrimental to developers who have obtained Location Permits or Spatial Utilization Permits based on the RTRW. Analysis of the Ministerial Decree indicates a vertical disharmony with the Madiun Regency RTRW, which is established through a Regional Regulation. The RTRW, as a regional regulation, has legal standing that must be respected by the central government within the framework of regional autonomy. However, the LSD was determined without considering the spatial allocations established by the region, thus creating a conflict of authority between the central and regional governments, impacting investment certainty.

This disharmony is also related to the division of authority as stipulated in Law 23/2014 concerning Regional Government. Regional governments have the authority to formulate and establish district/city spatial plans (RTRW). Therefore, when the central government establishes policies affecting regional space, a coordination mechanism is mandatory. Without coordination, such policies are not only procedurally flawed but also violate the principle of regional autonomy. From Hadjon's legal protection perspective, the disharmony between legal instruments demonstrates the state's failure to provide legal protection to the public. Legal protection can only be achieved if the legal system operates consistently and in an integrated manner. The inconsistency between the determination of the LSD and the regional RTRW is a clear example of the weak integration of central and regional policies in the land sector.



In addition to harmonization, public participation is a crucial element in preventive protection. Law 26/2007 explicitly mandates public involvement in the planning, utilization, and control of spatial use. However, in determining the Land Use Area (LSD), the public is not given the opportunity to raise objections. The absence of public consultation creates potential violations of the right to information and the right to participate in public decision-making. The lack of transparency in determining the LSD is another crucial issue. Although Technical Instructions have been issued regarding the methodology for determining the LSD, the public is not given access to the spatial data, satellite imagery, technical criteria, or indicative maps that form the basis for decisions. This contradicts the principle of transparency in the AUPB, which requires that all administrative decisions be accessible to affected communities.

Effective public participation ideally includes outreach, public consultation, and a clear objection or appeal mechanism. In the case of the LSD, even basic outreach was not conducted with landowners or developers. As a result, developers had no opportunity to verify data accuracy or raise objections before a decision was made. The absence of an integrated digital information system for land, LSD, and spatial planning data exacerbates investment uncertainty. Developers cannot access LSD data quickly and accurately. This situation contradicts the principle of public service and demonstrates that the state has not yet developed an information infrastructure that supports preventive protection. (Asshiddiqie, 2006)

Preventive legal protection also requires the government to adhere to the principle of legality, which contains procedural and substantive dimensions. Determination of the LSD that is not aligned with the Madiun Regency Spatial Planning Regulation (Perda RTRW) can be categorized as an action that violates the principle of legality. Without a consistent legal basis, government decisions can be deemed formally and materially flawed and potentially revoked. In the context of state administration, the central government is obliged to ensure that any policies that directly impact citizens' rights are not implemented unilaterally. The Ministry of ATR/BPN, as an executive organ, must carry out coordinative and consultative functions with local stakeholders. Ignoring this principle can lead to maladministration, as stipulated in Law 37/2008 concerning the Indonesian Ombudsman.

The prudence principle is also an important part of preventive protection. A policy to determine a Land Use Area (LSD) without thorough field verification can result in economic losses for developers. The prudence principle requires the government to consider the risks and impacts of the policy before implementation. By considering all these principles, preventive protection



should ideally encompass the planning stages, data verification, public consultation, synchronization with the Regional Spatial Plan (RTRW), and providing space for objections. Without this mechanism, the policy to determine a Land Use Area (LSD) loses legal and moral legitimacy because it does not align with the principles of a democratic state governed by the rule of law. Therefore, reformulating the legal protection policy for determining a Land Use Area (LSD) is urgently needed. New legislation is needed that specifically regulates the protection of land rights holders affected by LSD, including compensation mechanisms, administrative objections, and harmonization of central and regional policies. Without these reforms, legal uncertainty will persist, harming the investment climate in the housing sector and hindering the fulfillment of the community's right to adequate housing.

4. CONCLUSION

The establishment of the LSD through Decree of the Minister of ATR/BPN Number 1589/SK-HK.02.01/XII/2021 is essentially a form of implementation of national policy to maintain food security. However, its status raises legal issues because, hierarchically, ministerial decisions are not included in the laws and regulations as stipulated in Law Number 12 of 2011 in conjunction with Law Number 13 of 2022. This makes the LSD normatively weaker than the Regional Regulation on the Spatial Planning (RTRW), which has formal binding force. Thus, the implementation of the LSD without synchronization with the RTRW creates legal uncertainty for land rights holders. The discrepancy between the LSD map and the Madiun Regency RTRW creates regulatory disharmony and overlapping authority. The central government has designated the LSD as 31,000 hectares, while the RTRW only protects 21,000 hectares as LP2B. This 10,000-hectare discrepancy creates legal confusion, particularly for developers who have acquired land designated as a yellow zone according to the RTRW but are then hampered by the central government's LSD determination. This creates administrative uncertainty and directly impacts business sustainability.

Preventive legal protection for housing developers regarding the determination of the Land Use Permit (LSD) remains weak. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) should adhere to the hierarchy of laws and regulations and implement general principles of good governance through harmonization of central and regional policies, public participation, and transparency in determining the LSD so that preventive legal protection can be realized effectively and fairly. Repressive legal protection is available through



administrative mechanisms and state administrative courts. A lawsuit to the State Administrative Court (PTUN) based on unlawful acts by the authorities (onrechtmatige overheidsdaad) is an instrument that housing developers can use to obtain justice.

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