PATTIMURA Legal Journal

Volume 4 Issue 2, August 2025: p. 213-233
https://ojs3.unpatti.ac.id/index.php/pela//issue/view/1286

E-ISSN: 2830-2435
10.47268/pela.v4i2.20117

Provision of Compensation and Damages for Termination of a Fixed-Term Employment Agreement Before the End of the Term with Legal Certainty

Dedy Surya Mulyono[a], Abdul Rachmad Budiono[a], Budi Santoso[a]

[a] Faculty of Law, Universitas Brawijaya, Malang, Indonesia.
: dedysuryamulyono7@gmail.com
Corresponding Author*

Abstract

Introduction: *Fixed-Time Employment Agreement before the end of the period often creates legal uncertainty regarding the provision of compensation and damages. The lack of clarity in regulations encourages the need for legal analysis and reconstruction to ensure certainty, justice, and protection of rights for workers and employers.*

Purposes of the Research: *This research aims to explore and reinterpret the concepts of damages and compensation within the framework of employment law, particularly in the context of early termination of Fixed-Term Employment Agreements. By examining the legal ambiguities that often arise in such cases, the study seeks to develop a reconstructed legal model that ensures clarity and consistency in determining entitlements. This reconstruction is expected to contribute to the realization of equitable treatment and stronger legal safeguards for both employers and employees involved.*

Methods of the Research: *This study uses a legal research method with a statutory approach and a case approach. The legal materials used include primary legal materials (statutory regulations and court decisions), secondary (books, research results and journals) and tertiary (Indonesian dictionary). The legal materials are obtained from studies which will then be analyzed using analysis techniques in the form of systematic interpretation and grammatical interpretation.*

Results Main Findings of the Research: *The results of the analysis show that the meaning of compensation and damages in Fixed-Time Employment Agreement have fundamental differences, where compensation is given due to termination of employment that is not in accordance with the provisions, while compensation is a reward for work that has been completed. Legal certainty related to both terms is important to ensure justice and the implementation of workers' rights consistently.*

Keywords: Compensation; Damages; Legal Certainty; Fixed-Term Employment Agreement.

Submitted: 2025-06-20	*Revised: 2025-08-15*	*Accepted: 2025-08-16*	*Published: 2025-08-31*

How To Cite: Dedy Surya Mulyono. "Provision of Compensation and Damages for Termination of a Fixed-Term Employment Agreement Before the End of the Term with Legal Certainty." *PATTIMURA Legal Journal* 4 no. 2 (2025): 213-233. https://doi.org/10.47268/pela.v4i2.20117

Copyright © 2025 Author(s) Creative Commons Attribution-NonCommercial 4.0 International License

INTRODUCTION

Article 28D paragraph (2) "Everyone has the right to work and receive fair and decent remuneration and treatment in employment relations" based on this legal basis, the Indonesian state has a constitutional obligation to provide decent work for its citizens. Starting from the 1948 Employment Act to the 1997 Employment Act. Regulations regarding employment have been regulated in Law Numner 13 of 2003 concerning Employment or commonly referred to as the Employment Law. This compensation money does not apply to Fixed-Time Employment

Agreement workers with foreign citizen status, this has been stated in Article 15 paragraph (5) of Government Regulations Number 35 of 2021.

Although the Employment Law, the Job Creation Law, and their respective implementing regulations have outlined provisions regarding compensation and damages in cases of early termination of Fixed-Time Employment Agreement, practical uncertainties and interpretive inconsistencies still persist, in practice the provision of compensation and damages has not been implemented properly. Tower Putra Indonesia and its former employee on behalf of Ahmad Andi Putra. In this case, the employment relationship between the employee (plaintiff) and PT. Tower Putra Indonesia (Defendant) is based on a Fixed Term Employment Agreement for 1 (one) year starting from February 1, 2021 to January 31, 2022, but suddenly the Defendant did not provide work to the Plaintiff and did not provide wages to the Plaintiff even though the Fixed-Time Employment Agreement period was still valid, so the Panel of Judges considered that the Defendant had terminated the employment relationship with the Plaintiff on August 3, 2021 and the Plaintiff was entitled to receive compensation from the Defendant in the amount of 6 (six) times the Plaintiff's usual salary according to the remaining Fixed-Time Employment Agreement period. In this case, the Panel of Judges at the Industrial Relations Court failed to take into account the provision of compensation money, despite the fact that, at the time the dispute occurred, the regulations governing such compensation were already in effect. Furthermore, Article 17 of Government Regulation Number 25 of 2021 clearly states that if one party terminates a Fixed-Time Employment Agreement before its expiration, the employer is legally obligated to provide proportional compensation to the affected worker.

Not only is the meaning of compensation or damages problematic, but the provision of compensation and damages also raises problems in terms of its legal construction, because the current regulations, namely Article 62 of Law Number 13 of 2003 (Compensation) and Article 17 of Government Regulations Number 35 of 2021 (Compensation) have not provided legal certainty to both workers and companies. The current regulations only regulate in general and do not specifically regulate the provision of compensation and damages with the reason for termination, especially the provision of compensation when the Fixed-Time Employment

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Agreement is terminated before the end of the term. Due to the above problems, due to the lack of a clear understanding between compensation and damages, it causes confusion in society, especially among workers and employers, and to improve the legal construction regarding the provision of compensation and damages in order to provide legal certainty.

LITERATURE REVIEW

A. General Review of Compensation

Compensation in the scope of law is often referred to as legal remedies. Compensation is the fulfillment or restoration of rights, decided by the court, and awarded to the injured party. The party's loss is a direct consequence of someone else's actions, whether due to negligence, fault, or intent. This definition is in accordance with the definition of compensation according to the Great Dictionary of Indonesian Language, which is compensation for losses.[1] Yahya Harahap said that "compensation is a real loss or actual loss caused by a breach of contract."[2] There are 2 (two) things that cause compensation to arise, namely due to default and unlawful acts. The rules regarding compensation arising from default are regulated in Articles 1240 Civil Code to 1252 Civil Code, while the rules regarding compensation arising from unlawful acts are regulated in Article 1365 Civil Code. The form of compensation has basically been regulated in Article 1249 Civil Code, namely regarding losses caused by default, compensation for losses is only in the form of money. However, along with the development of law, based on the jurisprudence of judges' decisions and according to several legal experts, losses can be divided into 2 (two), namely material compensation (real losses) and immaterial compensation (loss of benefits or profits that may be received in the future/not real).

B. General Review of Compensation

According to Sadili Samsudin, "compensation is the provision of remuneration, either directly in the form of money (financial) or indirectly in the form of awards (non-financial)".[3] Providing appropriate and proper compensation will have a positive impact on employee morale. Compensation refers to everything employees earn in return for their efforts and

[1] Johannes Chrisos Tomus Simorangkir, Rudy T Erwin, and J T Prasetyo, *Kamus Hukum* (Jakarta: Sinar Grafika, 2013), p. 289.
[2] M. Yahya Harahap, *Segi-Segi Hukum Perjanjian* (Bandung: Alumni, 1986), p. 66.
[3] Sadili Samsudin, *Manajemen Sumber Daya Manusia* (Pontianak: Pustaka Setia, 2006), p. 206.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

contributions to the organization.[4] Employees are more likely to strive for better work outcomes and improve their performance when the compensation they receive from the company effectively addresses their needs and desires.[5]

Compensation (inducement) provided by a company is one of the important factors influencing why people choose to work in one organization rather than another. For that, compensation has several functions. First, the motivation function. Second, the monitoring function. Third, the information function. [6] According to Sadili Samsudin, the objectives of providing compensation (rewards) include:[7] fulfilling economic needs, increasing work productivity, advancing organizations or companies, and creating balance and justice.

C. General Study of Agreements

The terms "agreement" and "contract" are often used interchangeably, as they carry the same meaning in legal contexts. In the Burgerlijk Wetboek (BW), or the Indonesian Civil Code, both terms overeenkomst and contract are employed to refer to legally binding arrangements between parties, without any distinction in their legal significance. The term can be seen in the third book of BW, chapter II on "Obligations Born from Contracts or Agreements" which in the original language (Dutch), namely: "Van verbintenissen die uit contract of overeenkomst geborer woeden".[8] From this understanding, Ahmadi Miru and Sakka Pati said "it can be seen that there are two or more parties who bind themselves to each other. This understanding is actually not very complete, but with this understanding, it is clear that in the agreement there is one party binding itself to another party."[9]

Norms or rules are a measure, benchmark or guideline that must be obeyed in community life. While the law in question is a rule made by a person who has the authority to do so in order to regulate community life. Thus, legal norms are norms, measures or guidelines that

[4] I Komang Ardana, Ni Wayan Mujiati, and I Wayan Mudiarta Utama, *Manajemen Sumber Daya Manusia* (Yogyakarta: Graha Ilmu, 2012), p. 27.

[5] Angga Putra Samudra, Kusdi Rahardjo, and M. Djudi Mukzam, "Pengaruh Kompensasi Finansial Terhadap Kinerja (Studi Pada Karyawan PT. Bank Jatim Cabang Malang)," *Jurnal Administrasi Bisnis* 7, no. 2 (2014): 1–9.

[6] Samudra, Rahardjo, and Mukzam. *Ibid,* p. 107

[7] Samsudin, *Manajemen Sumber Daya Manusia*. *Op. Cit,* p. 188

[8] Agus Yudha Hernoko, *Hukum Perjanjian: Asas Proposionalitas Dalam Kontrak Komersial* (Jakarta: Prenada Media Group, 2014), p. 12.

[9] Ahmadi Miru, *Hukum Perikatan: Penjelasan Makna Pasal 1233 Sampai 1456 BW* (Jakarta: Raja Grafindo Persada, 2019), p. 64.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

contain rules made by a person who has the authority to do so in regulating community life that are coercive.

D. General Study of Employment Agreements

The Employment Law states that "An Employment Agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the terms of employment, rights and obligations of the parties." In Dutch, work agreements are usually called Arbeidsovereenkoms, which can be interpreted in several ways.[10] "A Labor Agreement is an agreement by which one party, the worker, binds himself to work under the orders of another party, the employer, for a certain period of time, in return for wages." Although there are two definitions of employment agreements in two different provisions and the Manpower Law does not expressly state that Article 1601 a BW is declared invalid, based on the principle of lex posteriori derogat lex priori, Article 1601 a BW must be considered invalid. This view is very constructive for legal development, one of the goals of which is to create legal certainty.[11]

Under Indonesian labor law, the principle of consensualism is known, which is a principle of agreement law stating that an agreement becomes valid and binding since the parties agree on the main matters agreed upon. In the context of labor relations, these main matters usually include the type of work to be performed and the amount of wages received. However, although the principle of consensualism provides flexibility in the form of agreements, the Manpower Law still classifies work agreements into two main forms. First, Indefinite Time Work Agreements (Fixed-Term Employment Agreement), often referred to as permanent employment relationships, where workers are employed for an indefinite period of time and have higher job security. Second, Specific Time Work Agreements (Fixed-Term Employment Agreement), or contract work, where the employment relationship is limited.

These two forms of employment agreements are governed by distinct legal provisions and carry different legal consequences, particularly concerning workers' rights and obligations, the duration of employment, and the regulations Termination of Employment. Each type outlines specific terms that affect how employment relationships are formed, maintained, and

[10] Djumadi, *Hukum Perburuhan: Perjanjian Kerja* (Jakarta: Raja Grafindo Persada, 1993), p. 23.
[11] Abdul R Budiono, *Hukum Perburuhan* (Jakarta: Indeks, 2011), p. 27-28.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

concluded. Although oral agreements are legally valid, best practice and to avoid disputes, employment agreements should still be made in writing, especially for Fixed-Term Employment Agreement which according to legal provisions must be made in writing and registered with the employment agency.

E. General Study of the Theory of Legal Certainty

While "legal certainty is a legal instrument of a country that is able to guarantee the rights and obligations of every citizen." Legal certainty itself is one element in enforcing the law. Sudikno Mertokusumo said "In enforcing the law there are three elements that must be considered, namely legal certainty, benefit and justice."[12] Their clarity ensures a singular, intended meaning, while their logic guarantees they are rational and well-reasoned, fostering confidence in their application.

As a fundamental goal of law, legal certainty contributes significantly to the realization of justice. Its concrete form lies in the impartial application and enforcement of legal provisions for any action, irrespective of the perpetrator. This predictability empowers everyone to gauge what they might face after undertaking a particular legal action. Such certainty is indispensable for establishing the principle of equality before the law, free from any discrimination.

F. General Study of Justice Theory

The concept of justice stems from the root word "just," which the Big Indonesian Dictionary defines as impartial, unbiased, aligning with what is right, adhering to truth, and acting appropriately without arbitrariness. Meanwhile, justice in Great Dictionary of Indonesian Language is defined as a fair nature (action, treatment, etc.). More specifically, fair is defined as a decision and action based on objective norms. Essentially, justice is a relative concept because individuals have differing perspectives. What one person considers fair might not be fair to another. Therefore, when someone claims to have acted justly, their actions must align with a recognized standard of justice within public order, a standard that varies significantly from place to place. To address the second problem's call for legal certainty and to provide a clearer understanding of compensation and damages, the various explanations of justice theory

[12] Sudikno Mertokusumo, *Mengenal Hukum : Suatu Pengantar* (Yogyakarta: Cahaya Atma Pusaka, 2010), p. 145.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

will support the legal certainty theory. This framework is essential for the legal reconstruction of how compensation and damages are awarded for the early termination of Fixed-Term Employment Contracts (Fixed-Term Employment Agreement).

METHODS OF THE RESEARCH

This type of research is legal research, because there is an unclear norm regarding the provision of compensation money and compensation money. In this writing, several approaches are also used, including the Statute Approach and the Case Approach.[13] In this normative legal research, the researcher uses legal materials in the form of primary, secondary and tertiary legal materials. Primary legal materials are legal materials that have authority.[14] The main legal sources utilized in this study consist of several key laws and regulations, including the 1945 Constitution, Law Number 6 of 2023, and Law Number 13 of 2003. In addition to these primary legal materials, the study also refers to secondary legal materials, which serve to provide interpretation, clarification, and context to better understand and analyze the primary sources,[15] among others: legal literature books; human resource literature books; research results, scientific papers; and legal journals, articles and papers and other literature. Tertiary legal materials are reference sources that offer guidance and aid in understanding both primary and secondary legal materials. These include resources such as legal dictionaries and the Big Indonesian Dictionary, which help clarify legal terminology and enhance comprehension of legal concepts discussed in the study. The method used to gather legal materials in this study was library research. This approach involved the collection and examination of primary legal materials, including various laws and regulations such as the Constitution, statutory laws, government regulations, and other relevant legal instruments. These materials were obtained through a structured search process, encompassing both vertically and horizontally related legal sources. Furthermore, the researcher reads, maps, quotes, examines and compiles these materials into a methodical framework that is interrelated. The technique of legal material analysis is carried out by systematically compiling

[13] Johni Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2007), p. 300.
[14] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana Prenadamedia Group, 2016), p. 141.
[15] Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2007), p. 116.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

and categorizing legal materials. This study uses systematic interpretation and grammatical interpretation. Systematic interpretation is the interpretation of the Law as part of the whole of the legal system with other Laws.[16] Grammatical interpretation is a pattern of interpreting words in a law using grammatical rules.[17]

RESULTS AND DISCUSSION

A. The Meaning of Compensation in the Provisions of Law Number 13 of 2003 and Government Regulation Number 35 of 2021

For the purpose of this research, compensation is defined by situations where a Fixed-Term Employment Agreement, established between an employer and a worker, is terminated by either party prior to its stipulated end date. This methodology seeks to ensure legal certainty when implementing provisions for indemnity and compensation in cases where fixed-term employment agreements are terminated prematurely.

Despite the Civil Code's omission of a direct definition for damages, the term is prominently featured throughout the text, notably within the chapter concerning obligations. Article 1246 states that creditors may claim costs, damages and interest for losses suffered and profits that should have been earned. Article 1247 confirms that the debtor is only obliged to compensate for losses that were foreseeable when the engagement was made, unless there was deceit. Article 1445 mandates that in instances where the subject matter of an obligation is destroyed through no culpability of the debtor, but the debtor possesses a claim to compensation for such destruction, this right must be conveyed to the creditor. Meanwhile, Article 1552 states that the lessee is obliged to provide compensation if a defect in the leased goods causes loss to the lessee, even though the defect was not known when the agreement was made.

Some of these articles do not mention the exact meaning of compensation, but from these articles it can be seen that compensation is given to one party if there is a party who has committed an error or negligence so that the other party feels harmed. In terms of civil law, compensation is not always in the form of money, but can take other forms. Unlike other legal areas, State Administrative law explicitly includes the notion of compensation. This term is

[16] Mertokusumo, *Mengenal Hukum : Suatu Pengantar*. *Op. Cit*, p. 172
[17] Zaeni Asyhadie and Arief Rahman, *Pengantar Ilmu Hukum* (Jakarta: Raja Grafindo Persada, 2013), p. 169.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

defined in Article 1 number 1 of Government Regulation Number 43 of 1991 on Compensation and Procedures for Implementation in State Administrative Courts, where it states: "Compensation is the payment of a sum of money to a person or civil legal entity at the expense of the State Administrative Body based on a decision of the State Administrative Court due to material losses suffered by the plaintiff."

The previous definition shows that the right to compensation for State Administration cannot be directly claimed unilaterally by individuals or legal entities who feel aggrieved. The procedure that must be taken first is through a lawsuit to the State Courts of Appeal. This lawsuit is a legal tool to assess whether the official's actions or decisions are actually contrary to the law or not. The State Courts of Appeal will then conduct an examination of the arguments and evidence submitted. If it is proven that the action of the state administrative official is unlawful (onrechtmatige overheidsdaad) and causes real harm, then the court will declare that the action is wrong and grant the request for compensation.Therefore, the State Courts of Appeal decision is an absolute requirement and legal basis for providing compensation or compensation to parties who have been harmed by unlawful administrative decisions or actions.

Complementing the legislative definition of compensation, recognized experts similarly articulate their unique conceptualizations. According to Yahya Harahap, compensation is a real loss (fietelijke nadeel) arising from default, namely when one party does not carry out part or all of the contents of the agreement.[18] Salim HS distinguishes compensation for tort, which is a form of compensation that arises not because of an agreement, but because of a mistake that harms the other party.[19] R. Setiawan states that compensation is a real loss due to default, the amount of which is determined by comparing the state of wealth after and before the default occurred.[20] Meanwhile, Mr. J.H. Nieuwenhuis, quoted by Djasadin Saragih, views loss as a reduction in the wealth of the injured party due to actions that violate norms, either in the form of default or illegal actions. According to him, loss is relative and is the difference between the

[18] Harahap, *Segi-Segi Hukum Perjanjian*. *Op. Cit.*
[19] Salim HS, *Hukum Kontrak, Teori & Tekriik Penyusunan Kontrak* (Jakarta: Sinar Grafika, 2019), p. 100.
[20] R Setiawan, *Pokok-Pokok Hukum Perikatan* (Bandung: Bina Cipta, 2014).

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

situation after the norm violation and the situation that would have been if the violation had not occurred.[21]

In language, compensation consists of two words, namely "ganti" which means to exchange or replace something lost, and "rugi" which means unfavorable circumstances or losses, including financial losses such as selling below the cost of capital.[22] Great Dictionary of Indonesian Language defines compensation as money replacing a loss. Legally, it's a legal remedy: a right fulfilled or payment ordered by a court to parties harmed by another's actions, stemming from error, negligence, or intent,[23] dwwanwhile, according to the English language, the term used is compensation which refers to something, especially money, given to someone because they have suffered loss or damage.[24] By definition, there appear to be various differences among experts. Based on the definitions of compensation outlined above, whether contained in the Law, Government Regulations, expert opinions, and other sources, there are several definitions of compensation itself. Then, this research tries to dig deeper into the concept of "compensation" specifically in the context of Article 62 of Law Number 13/2003 on Manpower, which relates to termination of employment in a Fixed-Term Employment Agreement. As a consequence of the default, the party at fault is obliged to provide compensation to the other party. The value of this compensation is calculated based on the remaining work time that has not been served, and the amount is equal to the amount of wages that should have been received by the worker if the contract runs until its expiration. According to the article, should a Fixed-Term Employment Agreement be terminated early by either party for reasons not specified in Article 61(1), the party initiating the termination is obligated to provide the other party with compensation equal to the remaining wages until the contract's expiration. The sentences in the article can be interpreted as the existence of a unilateral act in prematurely terminating the employment relationship, without a valid reason according to the law, which then gives rise to an obligation to pay compensation.

---

[21] Djasadin Saragih, *Pokok-Pokok Hukum Perikatan* (Surabaya: Airlangga University Press, 1985).

[22] Aris Anwaril Muttaqin, *Sistem Transaksi Syariah, Konsep Ganti Rugi Dalam Etika Bisnis Syariah* (Yogyakarta: Pustaka Ilmu Group, 2015), p. 40.

[23] Simorangkir, Erwin, and Prasetyo, *Kamus Hukum*, 2013. *Op. Cit.*

[24] A S Hornby, *Oxford Advanced Learner''s Dictionary of Current English* (New York: Oxford University Press, 2000), p. 260.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Consequently, compensation as per Article 62 of Law Number 13 of 2003 signifies a mechanism to uphold the rights of an aggrieved party when employment is terminated prematurely and inconsistently with prevailing laws, work agreements, collective labor agreements, or company policies. Within this framework, compensation is defined as a payment of money, calculated to match the wages due for the period remaining until the employment agreement's intended expiration. From this definition, it can be concluded that there are four important criteria in the concept of compensation, namely: (1) there is an untimely termination of the employment agreement, (2) the reason for termination is not in accordance with the applicable provisions, (3) there is a loss for one of the parties, and (4) the injured party receives monetary compensation for their rights.

Furthermore, from several definitions of compensation that have been described above, it is also necessary to know the meaning of compensation itself in order to conclude whether the meaning of compensation and compensation is different or the same? Though the Civil Code doesn't explicitly define compensation, Article 1381 mentions it as a way to extinguish an obligation. This form of compensation is akin to debt set-off, a situation where two individuals with reciprocal debts have those debts nullified by specific methods outlined in Articles 1425 to 1435 of the Civil Code.

According to Article 1 point 2 of Government Regulation Number 43 of 1991, compensation is defined as a form of financial accountability imposed on a state administrative body or official toward an individual or civil legal entity that has suffered harm as a result of an administrative action. This provision emphasizes the state's obligation to provide redress for losses caused by the exercise of administrative authority. This loss can arise because of an erroneously issued State Administrative Decision or because the decision that should have been issued was not issued by the authorized official. The decision in question must be final and binding, meaning that it cannot be changed or revoked administratively, and has a direct impact on the rights and interests of the parties concerned, especially in the field of employment. A concrete example of this is when a civil servant is dismissed without valid reasons, or his rights are denied through a binding administrative decision. Furthermore, this

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

compensation becomes payable to an employee who, despite being exonerated and due for reinstatement, cannot be returned to their previous role due to a shift in circumstances. Consequently, they are entitled to a monetary award as an alternative.

Based on the preceding definition, it's evident that compensation is a monetary payment provided to a state civil servant who, despite a State Administrative Court Decision dictating their return to their former role, cannot be reinstated due to prevailing circumstances. This explicitly limits the application of such compensation to Civil Servants and requires it to be predicated upon a State Administrative Court Decision.

There are many terms that are often used to refer to compensation, such as severance pay, compensation, loss of payment, remuneration, or reward. In general terms in the world of employment, the compensation is obtained by a worker/laborer from the company after carrying out his obligations as an employee. Compensation is defined as all forms of remuneration provided to employees in exchange for their efforts.[25] Meanwhile, according to Sadili Samsudin, "compensation is the provision of compensation, either directly in the form of money (financial) or indirectly in the form of rewards (non-financial)".[26] Compensation has two different meanings, according to Great Dictionary of Indonesian Language, it is the compensation or settlement of receivables with goods equivalent to debt. On the other hand, in the context of management, compensation is a payment in cash or non-cash form (goods/services) given to employees in a business entity. Based on several definitions of compensation that have been described above, both those contained in the Law, Government Regulations, expert opinions, and other sources, there are several meanings of compensation itself. Nevertheless, this research is dedicated to ascertaining the definition or understanding of compensation contained within Article 61A paragraph (1) of Law Number 6 of 2023 of the Manpower Cluster, wherein it is stated that "In the event that a specific time work agreement ends as referred to in Article 61 paragraph (1) letter b and letter c, the Employer is obliged to provide compensation to the Worker/Laborer", then every word and sentence in the article can be understood.

[25] Sedarmayanti, *Manajemen Sumber Daya Manusia* (Bandung: Refika Aditama, 2013), p. 239.
[26] Samsudin, *Manajemen Sumber Daya Manusia. Op. Cit,*p. 206.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Referring to Article 61A paragraph (1) of Law Number 6 of 2023 (Labor Cluster) and Article 17 of Government Regulation Number 35 of 2021, the author concludes that compensation is a mandatory payment from employers/companies in the form of money to workers/laborers, the amount of which is based on the validity period of the Fixed-Term Employment Agreement and the work that has been completed. This understanding allows the formulation of criteria regarding the meaning of compensation, namely: 1) The existence of service rewards in the form of money by employers/companies; 2) There is a period of work agreement that has been completed; 3) The existence of work that has been completed. After the description of the meaning of compensation and compensation as well as the elements/criteria of compensation and compensation, it can be seen the differences and similarities regarding compensation and compensation. The differences and similarities can be seen in the table below:

Table 1. Similarities and Differences Between Indemnity and Compensation

No	Categori	Redress	Compensation
1	Equation	There is an amount of money given	There is an amount of money given
2	Differences	1. Termination of the agreement before the end of its term.	1. There exists a duration that reaches its end, either consistent with the terms of the agreement or inconsistently.
		2. There is a reason for termination that is not in accordance with what has been determined.	2. There is work that has been completed.
		3. There is a loss suffered by one of the parties.	3. There is no loss incurred or experienced by the parties.

The presented table allows for the conclusion that compensation and indemnity carry disparate meanings, consequently enhancing legal clarity and fostering greater legal certainty. The established legal clarity concerning the definitions of these two terms dictates that in fixed-term employment agreements, both compensation and indemnity must be provided

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

concurrently. The implementation is expected to run clearly, regularly, consistently, and consequently, and not be influenced by subjective factors in people's lives.

B. Legal Reconstruction Regarding the Provision of Compensation for Termination of a Fixed-Term Employment Agreement Before the End of The Period with Legal Certainty

Grammatically, reconstruction comes from the word "re" which means back or once again, and "construction" which means arrangement, so overall it means rearrangement. This word is transitive, requiring an object for its meaning to be clear, as in the phrase "legal reconstruction. According to Henry Campbell Black in Black's Law Dictionary, reconstruction is defined as the act of rebuilding, especially when a piece of legislation has lost its context, so it needs to be modified or even completely dismantled and then reconstructed into a more relevant and appropriate legal system.[27] Legal reconstruction is important because it is able to identify legal changes and developments, resolve conflicts or inconsistencies in regulations, and provide a critical view to improve the law so that it is more in line with the demands of society and the value of justice. In legal research, reconstruction plays a role in analyzing legal developments, solving legal problems, and formulating recommendations for sustainable change. Although the provision of compensation for the untimely termination of a Fixed-Term Employment Agreement has been regulated, the fact is that the implementation of this regulation has not fully provided legal certainty and justice for workers and employers. According to Gustav Radbruch, law must be able to present justice, certainty, and usefulness as the main elements; good law must guarantee the interests of the people and become a means of social integration. Legal certainty represents a fundamental necessity within society, as it forms the basis for achieving justice through law. Without clear and consistent legal norms, the realization of justice and the protection of human rights become uncertain. Only through legal certainty can laws function effectively as instruments that uphold fairness and safeguard individual rights.[28] In this research, the first object of legal certainty, namely related to legal clarity, has actually been explained and described in the discussion of the first problem formulation regarding the meaning of compensation and compensation, the terms

[27] Henry Campbell Black and Bryan A Garner, *Black's Law Dictionary* (New York: West Group, 2009), p. 1437.
[28] Endang Sutrisno, *Bunga Rampah Hukum Dan Globalisasi* (Yogyakarta: Genta Press, 2007).

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

"compensation money" and "damages" hold distinct legal meanings, which leads to the interpretation that both forms of payment must be implemented concurrently in the event of early termination of a Fixed-Term Employment Agreement unless explicitly stated otherwise in the employment contract. This ensures that workers receive their rightful entitlements in accordance with applicable laws and the terms agreed upon. Furthermore, related to the second and third objects of legal certainty, namely Legal Consistency and Certainty of Legal Application. This is where there are still many problems that occur, starting from the inconsistency of law enforcement in the provision of compensation and compensation money to the discrimination in assessing a problem.

A recurring issue in industrial relations disputes is the absence of legal certainty in awarding compensation and severance pay when a Fixed-Term Employment Agreement is terminated before its stipulated end. This problem persists even in cases with permanent legal decisions, highlighting a fundamental lack of legal consistency and predictable application of the law: 1) The case adjudicated by the Industrial Relations Court at the Central Jakarta District Court, registered under Decision Number 149/Pdt.Sus-PHI/2022/PN.Jkt.Pst, received final and binding confirmation through the Indonesian Supreme Court's Decision Number 1205 K/Pdt.Sus-PHI/2023. On August 3, 2021, the employment relationship between the Plaintiff and the Defendant was terminated prior to the completion of the agreed contractual period. This resulted in the Defendant being ordered to pay IDR 26,497,122.00 in compensation. Given the Defendant's premature termination of the employment agreement, which was set to expire on January 31, 2022, the judges determined that Article 62 of Law Number 13 of 2003 dictates the Defendant's obligation to pay compensation equivalent to the wages that would have been earned until the agreement's completion. Notably, the judge's ruling did not include any provision for compensation funds for the workers. The author contends that the judge's decision and accompanying considerations do not embody legal certainty or justice. A key issue is that the judge continued to reference Article 61 paragraph (1) of Law Number 13 of 2003. However, the newer Law Number 11 of 2020 has moved the provision for terminating an employment agreement upon work completion to Article 61 paragraph (1) letter c.

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Furthermore, the judge overlooked Article 61A paragraph (1) of Law Number 11 of 2020 in conjunction with Article 17 of Government Regulation Number 35 of 2021. This omission meant workers were denied the compensation they are legally entitled to upon the termination of a fixed-term work agreement, thereby depriving them of their statutory rights. 1) The case from the Industrial Relations Court at the Semarang District Court (Number 19/Pdt.Sus-PHI/2023) was upheld by the Indonesian Supreme Court's Decision Number 1215 K/Pdt.Sus-PHI/2023: Stating that the plaintiffs' claims were granted in their entirety and the employment relationship was declared terminated upon the expiration of the employment agreement. The defendant was ordered to pay wages to the plaintiffs amounting to IDR 35,869,799.00, and to charge the costs of the case to the state. In the judges' deliberation, the plaintiffs' layoff from August 8, 2022, without any work activities, was considered a unilateral termination of employment by the defendant. This triggered the application of Article 62 of Law Number 13 of 2003, which obligates the defendant to pay compensation up to the employment agreement's original expiry date.

The author argues that this decision lacks legal certainty and justice due to the judge's failure to recognize lack of orders/work as specific work completion under Article 61(1)(c) of Law Number 11 of 2020. Compounding this, the judge ignored the compensation requirements in Article 61A(1) of Law Number 11 of 2020 jo. Articles 15, 16, and 17 of Government Regulation Number 35 of 2021, despite acknowledging the new law in the context of the fixed-term agreement's termination. As a result, workers do not get the compensation rights that should be guaranteed by the latest laws and regulations; 3) The case the Industrial Relations Court's Decision in Central Jakarta, Number 47/Pdt.Sus-PHI/2022, which the Indonesian Supreme Court's Decision Number 1023 K/Pdt.Sus-PHI/2023 later reinforced: The court declared the early termination of the Fixed-Term Employment Agreement between the plaintiff and the defendant. The defendant was ordered to pay compensation for the remainder of the non-permanent work agreement for 15 months and termination compensation according to the length of service for 9 months totaling IDR 66,146,406.50, as well as charging case costs to the state. The judges, in their deliberations, cited Article 62 of Law Number 13 of 2003, as well as Article 61(1) and Article 61A of Law Number 11 of 2020 jo. Government Regulation Number

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

35 of 2021. These regulations specifically address the payment of compensation and damages when a Fixed-Term Employment Agreement is terminated before its stipulated end.

However, according to the author, the decision does not reflect legal certainty and justice because the facts of the trial prove that the plaintiff was dismissed due to poor performance after receiving guidance from the company. Therefore, the plaintiff should only be entitled to receive compensation money proportionally in accordance with Article 16 of Government Regulations Number 35 of 2021 without getting compensation. The judge should consider the legitimate reasons for the termination and refuse to award compensation, so that the decision is fairer and in accordance with applicable labor law principles; 4) The case the Industrial Relations Court's Decision in Kendari, Number 8/Pdt.Sus-PHI/2022, which the Indonesian Supreme Court's Decision Number 359 K/Pdt.Sus-PHI/2023 later reinforced: The court officially declared the termination of the employment relationship between the plaintiff and the defendant as of June 28, 2022, on the grounds of a breach of the employment agreement. As a result, the defendant was ordered to pay IDR 2,038,435 to the plaintiff, while the state was assigned responsibility for the court fees. Despite the existence of legal provisions regulating compensation for the early termination of a Fixed-Term Employment Agreement specifically Article 62 of Law Number 13 of 2003, Article 61(1) of Law Number 11 of 2020, and Articles 15, 16, and 17 of Government Regulation Number 35 of 2021—the judges concluded that the plaintiff was not entitled to compensation. This conclusion was reached based on the court's assessment that the termination was due to a proven breach of a valid employment contract. According to the author, the legal considerations and decisions of the panel of judges have reflected legal certainty and justice because they have been guided by applicable labor regulations. However, there are shortcomings in the accuracy of the judges when citing the basic rules for terminating employment. For legal consistency and to align with the current law, it's critical that Article 61 paragraph (1) letter e of Law Number 11 of 2020 be used, rather than the outdated letter d that the panel of judges referred to.

An analysis of these four cases reveals that the existing framework for awarding compensation in Fixed-Term Employment Agreement terminations prior to their expiration

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

has not yet achieved legal certainty or equitable outcomes for either workers or employers. In the first and second cases, the provision of compensation has not been fully and consistently implemented, even though the rules on compensation and compensation should be given simultaneously if the termination is not in accordance with Article 61 paragraph (1) of Law Number 11 of 2020, but in fact only compensation is applied. Meanwhile, in the third and fourth cases, there are inconsistencies, where workers who are terminated due to poor performance still receive compensation and proportional compensation, while workers who are terminated due to violations only receive proportional compensation. This condition reveals a deficiency in the consistent application of regulatory frameworks, consequently failing to uphold legal certainty. Such certainty, comprising legal clarity, legal consistency, and the assuredness of legal implementation, remains unfulfilled in the context of compensation provisions for the early termination of Fixed-Term Employment Agreement.

Article 62 of Law Number 13 of 2003, which addresses compensation, is still ambiguous, particularly when a Fixed-Term Employment Agreement ends early. A major reason for this ambiguity is that termination grounds are frequently absent from the employment contract, company policies, or collective bargaining agreements. This happens because both workers and employers consider that reasons such as absenteeism or being detained by the authorities are already regulated in the Law or Government Regulations so there is no need to explicitly include them in the contract or internal company regulations. This prevalent condition often fuels industrial relations disputes and compromises the fairness of their resolution. The core issue lies in the ambiguity and lack of definitive termination grounds within the contractual agreements, notwithstanding the civil law's foundational adherence to principles like consensualism, freedom of contract, pacta sunt servanda (the sanctity of contracts), and good faith in agreement formation. However, in practice, the employment agreement and related documents still do not clearly and specifically regulate the reasons for termination before the expiration of the Fixed-Term Employment Agreement period.

Given the preceding explanation, a reconstruction of the law governing compensation payments is imperative. The objective of this legal reconstruction is to establish greater legal

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

certainty and promote fair outcomes in cases where fixed-term employment agreements are terminated before their agreed-upon expiration. By clarifying the legal framework, the aim is to ensure that the rights and obligations of both parties are upheld consistently and justly. The proposed approach is outlined below: a) Reconstruct Article 62 of Law Number 13 of 2003 to allow employers to terminate a fixed-term employment agreement early, without providing compensation, when specific reasons related to worker/laborer behavior are present; b) The proposed reconstruction of Article 61A of Law Number 6 of 2023 (Labor Cluster) aims to enhance the clarity and specificity of compensation provisions. This will be achieved by stipulating particular reasons within Work Agreements, Company Regulations, and Collective Labor Agreements; c) The proposed reconstruction of Article 17 of Government Regulation No. 35 of 2021 seeks to improve the clarity and specificity of compensation provisions. This involves incorporating defined reasons into Work Agreements, Company Regulations, and Collective Labor Agreements, thereby ensuring consistency with the higher Law. This approach allows compensation provisions to be regulated in detail and specifically within work agreements, company regulations, and collective labor agreements, ensuring clarity and justice for both workers and employers. The broader impact of this legal reconstruction is expected to be a robust framework for compensation in cases of temporary employment termination.

CONCLUSION

From the detailed explanation and legal reconstruction of compensation and damages in the context of premature Fixed-Term Employment Agreement termination, we can conclude that despite their shared goal of providing legal protection, compensation and damages are fundamentally different in their meaning and criteria. While both involve monetary payments, compensation refers specifically to the fulfillment of rights when an agreement is unilaterally and improperly terminated. Compensation, however, represents payment for services or work already rendered by employees throughout the employment period. This difference emphasizes the importance of legal clarity as part of legal certainty. Therefore, the provision of compensation and damages must be carried out simultaneously and consistently, in order to ensure justice and protection for workers. However, to realize more optimal legal certainty and

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

justice, a reconstruction of Article 62 of Law Number 13 of 2003, Article 61A of Law Number 6 of 2023, and Article 17 of Government Regulations Number 35 of 2021, by setting out specific reasons in the company's internal regulations so that the implementation of the provision of compensation and damages is clearer, more orderly, and does not conflict with higher regulations.

REFERENCES

Ardana, I Komang, Ni Wayan Mujiati, and I Wayan Mudiarta Utama. *Manajemen Sumber Daya Manusia*. Yogyakarta: Graha Ilmu, 2012.

Asyhadie, Zaeni, and Arief Rahman. *Pengantar Ilmu Hukum*. Jakarta: Raja Grafindo Persada, 2013.

Black, Henry Campbell, and Bryan A Garner. *Black's Law Dictionary*. New York: West Group, 2009.

Budiono, Abdul R. *Hukum Perburuhan*. Jakarta: Indeks, 2011.

Djumadi. *Hukum Perburuhan: Perjanjian Kerja*. Jakarta: Raja Grafindo Persada, 1993.

Harahap, M. Yahya. *Segi-Segi Hukum Perjanjian*. Bandung: Alumni, 1986.

Hernoko, Agus Yudha. *Hukum Perjanjian: Asas Proposionalitas Dalam Kontrak Komersial*. Jakarta: Prenada Media Group, 2014.

Hornby, A S. *Oxford Advanced Learner"s Dictionary of Current English*. New York: Oxford University Press, 2000.

HS, Salim. *Hukum Kontrak, Teori & Tekriik Penyusunan Kontrak*. Jakarta: Sinar Grafika, 2019.

Ibrahim, Johni. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2007.

Marzuki, Peter Mahmud. *Pengantar Ilmu Hukum*. Jakarta: Kencana Prenadamedia Group, 2016.

Mertokusumo, Sudikno. *Mengenal Hukum : Suatu Pengantar*. Yogyakarta: Cahaya Atma Pusaka, 2010.

Miru, Ahmadi. *Hukum Perikatan: Penjelasan Makna Pasal 1233 Sampai 1456 BW*. Jakarta: Raja Grafindo Persada, 2016.

Muttaqin, Aris Anwaril. *Sistem Transaksi Syariah, Konsep Ganti Rugi Dalam Etika Bisnis Syariah*. Yogyakarta: Pustaka Ilmu Group, 2015.

Samsudin, Sadili. *Manajemen Sumber Daya Manusia*. Pontianak: Pustaka Setia, 2006.

Samudra, Angga Putra, Kusdi Rahardjo, and M. Djudi Mukzam. "Pengaruh Kompensasi Finansial Terhadap Kinerja (Studi Pada Karyawan PT. Bank Jatim Cabang Malang)." *Jurnal Administrasi Bisnis* 7, no. 2 (2014): 1–9.

Saragih, Djasadin. *Pokok-Pokok Hukum Perikatan*. Surabaya: Airlangga University Press, 1985.

Sedarmayanti. *Manajemen Sumber Daya Manusia*. Bandung: Refika Aditama, 2013.

Setiawan, R. *Pokok-Pokok Hukum Perikatan*. Bandung: Bina Cipta, 2014.

Simorangkir, Johannes Chrisos Tomus, Rudy T Erwin, and J T Prasetyo. *Kamus Hukum*. Jakarta: Sinar Grafika, 2009.

Sunggono, Bambang. *Metodologi Penelitian Hukum*. Jakarta: Raja Grafindo Persada, 2007.

Sutrisno, Endang. *Bunga Rampah Hukum Dan Globalisasi*. Yogyakarta: Genta Press, 2007.

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

Copyright: © AUTHOR. This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License. (CC-BY NC), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

PATTIMURA Legal Journal (Pela) is an open acces and peer-reviewed journal published by Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia.

OPEN ACCESS

PATTIMURA Legal Journal, 4 (2) August 2025: 213 - 233
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia