

THE EXISTENCE OF ASSERTION PRINCIPLES IN THE FINANCIAL SUPERVISION
AUTHORITY BY THE SUPREME AUDIT AGENCY IN INDONESIA

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Abstrak:

The Supreme Audit Agency (BPK) is an institution in charge of examining Indonesian state finances. It is constitutionally regulated in Article 23E paragraph (1) of the 1945 Constitution. The primary function of the BPK is the function of controlling state finances. However, at the implementation level, there are still audit actions carried out by BPK that do not pay attention to the assertion principle. This study will examine the importance of applying the assertion principle in implementing the task of auditing state finances by the BPK. This research is categorized into the type of normative research based on the problem or theme raised by this research. The approach used in this study is an approach as a law by linking several positive laws that exist when discussing the main discussion topics in this study. The analytical method used is descriptive-analytical by describing the applicable laws and regulations. The results of this study explain that assertions in positive law, legal practice and guidelines for BPK in carrying out audit duties on state finances have been emphasized even though, in practice, it has yet to be optimally used. This issue becomes an important topic because it occurs in the law in the field at the time of whether the affirmation should be used by the BPK or not. Thus, this research will confirm and understand the use of principles required by BPK in Indonesia.

INTRODUCTION

Finance is one of the central aspects of a country's state administration. All operations and actions carried out by state institutions will certainly use money. Thus, finance becomes one of the leading sectors in the state administration of a country. As a living being closely related to interests, money becomes hazardous if its use is not monitored. It prompted the need to establish a particular state institution to examine and monitor the course of finance.

In Indonesia, the state institution that has the authority to audit finances in state institutions (and other related matters) is the Supreme Audit Agency (BPK). Constitutionally, the BPK's authority in exercising its authority to audit finances is affirmed in Article 23E of the 1945 Constitution. This article emphasizes that BPK is a free and independent state institution with the primary authority to conduct audits of the management of state financial responsibilities, which in this case, is a state agency. What is meant by BPK as a state institution that is free and independent is that BPK has freedom and independence in three stages of examination, namely planning, implementation, and planning stages which are free to determine the object to be examined, except for audits whose objects are regulated separately in the law. Law or examination based on special requests from representative institutions.



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At the statutory level, the BPK is regulated in Law Number 15 of 2006 concerning the Supreme Audit Agency (there have been amendments to several articles through judicial review by the Constitutional Court based on Constitutional Court Decision Number 13/PUU-XI/2013).

The authority to conduct state financial audits by the BPK has an essential and significant aspect, so in exercising this authority, restrictions are needed to prevent abuse of authority. So, it is necessary to limit the exercise of this authority in law, known as the principle of law. The principle of law is a principle in law that is still abstract. Satjipto Rahardjo emphasized that the principle of law is the primary basis for the formation of law and is also referred to as the starting point in the formation and interpretation of laws. Legal principles have an essential role in limiting and directing the application of positive law to remain within certain legal ideal limits.

The assertion principle binds BPK in carrying out its financial audit authority. I Gde Pantja Astawa said that the BPK auditor must confirm the party being audited (auditee) in the audit, whether it is a financial audit, a performance audit or an audit with a specific purpose such as an inventive examination. Thus, BPK, carrying out its financial audit function, is bound by the assertion principle.

The legal issues that will be discussed in this paper are the urgency of the birth of the BPK in Indonesia, the position and constitutional authority of the BPK and the existence of assertion principles in the implementation of the financial audit authority by the BPK. The three discussions will be the discussion that will be studied in this research, where the main topic is the existence of assertion principles within the authority of BPK.

METHOD

This research is included in the type of normative legal research. It is adjusted to the legal issues discussed in this study. The research approach used in this research is the legal principle approach. The legal principle used in this research is the assertion principle. This legal principle will later be used as a benchmark in assessing the effectiveness of a positive law in its implementation aspect. Then, later this research will also be associated with some of the ideal foundations affirmed in positive law.

RESULTS AND DISCUSSION

The Urgency of the Birth of the BPK in Indonesia. The existence of institutions such as the Supreme Audit Agency, known today, has existed since the days of the Dutch East Indies. During the Dutch East Indies era, the forerunner to the formation of the BPK was evident from the formation of the Raad van Rekenkamer. This institution's existence was fundamental to carrying out the supervisory function of the performance of the Governor General in the financial sector at that time. The BPK is an auxiliary to the function of the DPR in the field of supervision of the work of the Government. Thus, the financial audit function carried out by the BPK is closely related to the supervisory function of the DPR. In the Original Manuscript of the 1945 Constitution, BPK is mentioned in Article 23, paragraph (5) of the 1945 Constitution. It is emphasized that BPK has responsibility for finances whose regulations are stipulated by law. The DPR will notify the examination results (Soemantri, 1974). In the elucidation of Article 23 paragraph (5) of the 1945 Constitution, it is stated that it is essential that an agency be independent of the influence and power of the Government because an agency that is subject to the Government cannot carry out such heavy obligations. On the other hand, it is not an agency that stands above the Government. During the 1945 Constitution (original text), further regulation of BPK was regulated in Law Number 5 of 1973 concerning BPK.



During the validity period of the Constitution of the Republic of the United States of Indonesia (KRIS), there was no known state agency BPK. However, in KRIS, a state institution has the same duties, functions and authorities as the BPK, namely the Financial Supervisory Board (DPK). DPK is regulated in a separate section, namely Section 5 of the KRIS. Further regulation of TPF is regulated in federal law. It can be said that the DPK during the implementation of the KRIS was the BPK that is known in Indonesia today. It becomes more evident when we examine the arrangements in Article 170 of the KRIS. In Article 170 of the KRIS, it is stated that the expenditures and revenues of the United States of Indonesia shall be borne by the House of Representatives (DPR), by advancing the calculations approved by the Financial Supervisory Board (DPK), according to the rules provided under federal law. So, during the KRIS, BPK was replaced by BPK.

Similar to the validity period of the KRIS, the 1950 Constitution did not recognize the BPK state institution, what was known in the 1950 Constitution was DPK. The state financial supervisory institution contained in the 1950 Constitution is the Financial Supervisory Board. The Financial Supervisory Board is regulated in Part IV of the 1950 Constitution. Regarding the composition and powers of DPK, it is further regulated by law. The core authority of the DPK is regulated in Article 112 of the 1950 Constitution, namely to supervise and examine the responsibilities of state finances. The results of the supervision and examination will be submitted to the DPR. Then, Indonesia's state expenditures and revenues are accounted for by the DPR, where later the Government will submit calculations and later be ratified by the DPK, where further arrangements regarding this matter are regulated in law.

In the post-amendment 1945 Constitution, the BPK is regulated explicitly in Chapter VIIIA of the 1945 Constitution. Article 23E paragraph (1) of the 1945 Constitution affirms that in terms of examining the management and responsibilities of state finances, a state institution called the Supreme Audit Agency is accessible and independent. The urgency of the birth of an investigative institution, namely the Supreme Audit Agency in Indonesia, is aimed at supervising the management of state finances organized by state institutions or other administrations. It can be emphasized that the existence of the BPK aims to realize a clean state administration and avoid the practice of corruption, collusion and nepotism (KKN) to maximize financial management in the Indonesian state administration (Kaldera et al., 2020).

BPK's Constitutional Position and Authority. The BPK is one of the state institutions, including as a constitutional organ, a state institution whose position and authority are regulated in the 1945 Constitution. The primary authority possessed by the BPK as a constitutional organ is to audit state finances in various sectors of Government or existing state administration, whether at the central level to the regional level. BPK has an essential role in eradicating corruption in Indonesia. It is undoubtedly in line with the results of the XVI congress of the International Congress of Supreme Audit Institutions (IN-COSAI), which was held in Uruguay in 1998, where the main topics discussed at the congress were is about the role of audit institutions in the prevention and detection of fraud and corruption or "Supreme Audit Institutions And The Prevention And Detection of Fraud and Corruptions" (Illahi et al., 2017). Constitutionally, the importance of BPK's position is emphasized in Article Chapter VII, Financial Matters of the 1945 Constitution. Article 23, paragraph (5) of the 1945 Constitution emphasizes that to examine the responsibilities of state finances, it is necessary to establish a Financial Audit Board whose regulations are stipulated by law. The House of Representatives (DPR) will notify the examination results. In general, the description of the BPK is confirmed in Article 23E of the 1945 Constitution. Article 23E paragraph (1) of the 1945 Constitution states that the Financial Audit Board was

established to examine the management and responsibility of state finances. Then, in Article 23E paragraph (2) of the 1945 Constitution, it is emphasized that the results of state financial audits that the BPK has carried out are submitted to the House of Representatives (DPR), Regional Representatives Council (DPD) and Regional People's Representative Council (DPRD) under their respective authorities. The follow-up to the supervision results is emphasized in Article 23E paragraph (3) of the 1945 Constitution. The results of the examination carried out by the BPK will be followed up by representative institutions and related bodies under the law.

Jimly Asshiddiqie, in his book, says that the BPK has a quasi-judicial (semi-judicial) function (Asshiddiqie, J. 2007). It is because the BPK can assess and determine the number of state losses, whether it is caused by unlawful acts, whether intentional or unintentional, committed by treasurers, managers of State-Owned Enterprises / Regional-Owned Enterprises, and other state institutions or state administrations. which organizes the management of state finances. The assessment of state losses and who determines the party that must make compensation is determined through the decision of the BPK.

Then, Jimly Asshiddiqie is of the view that there are at least three main functions of the BPK, namely as follows:

1. Operative Function

The operative function of the BPK, in this case, is to carry out inspections, supervision and investigations of the control, management and management of state assets;

2. Judicial Function

The judicial function of the BPK, in this case, is the authority to sue the treasury and claim compensation for treasurers and non-treasury civil servants who, because of their actions, violate the law or neglect their obligations which causes financial losses and state assets.;

3. Advisory Function

In this case, the advisory function owned by BPK is to consider the Government regarding the management and management of state assets.

The members of the BPK are elected by the DPR, taking into account the considerations of the DPD, which the President will then inaugurate. The members of the BPK will later elect the chairman of the BPK. BPK in Indonesia is domiciled in the country's capital city, which will later have representatives in each province. More detailed arrangements regarding BPK are regulated in laws and regulations.

The Existence of Assertion Principles in implementing the Financial Audit Authority by BPK. It is necessary to know that BPK, through its auditors, in examining the existence of state financial losses or indications of criminal acts of state or regional financial management must be carried out with the State Financial Audit Standards (SPKN) because this is a benchmark for examination and at the same time as a basis for examination. The State Financial Audit Standards (SPKN) by the BPK are currently regulated in BPK Regulation Number 1 of 2017 concerning State Audit Standards.

According to Prof. Pantja, Professor of Administrative Law at the University of Padjadjaran, there are 3 (three) elements in the Examination of State Financial Losses, namely:

1. The Audit Result Report must be issued by an authorized institution, in this case, the BPK;
2. Must pay attention to and make the State Financial Audit Standard (SPKN) as a guide or basis for examination;
3. Must pay attention to one principle, namely the principle of assertion

This assertion principle requires the auditor to examine the entity being audited because the audited entity must be confirmed regardless of the type of audit carried out by the Financial Audit

Board or BPK. It is intended that the audited entity has the opportunity to review, examine, and defend itself. This principle is absolute or non-negotiable in examining any type regulated in the BPK Law.

As regulated in Article 6 Paragraph (5) of Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK), it is stated as follows:

"In carrying out the audit on the management and responsibility of state finances as referred to in paragraph (1), BPK conducts discussions on the audit findings with the object being examined by the state financial audit standards."

The explanation of this article by Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK) is as follows:

"The discussion is needed to confirm and clarify the findings of the BPK examination with the object being examined. The results of the BPK's examination of the financial statements are used by the Government to make necessary corrections and adjustments so that the audited financial statements contain the corrections before being submitted to the DPR, DPD, and DPRD by their respective authorities.

Thus, this assertion principle is an absolute principle that is the norm of the law. However, BPK has its internal guidelines for audits conducted by auditors. It is stated that the person being examined must be asked for a response, but on the other hand, it is stated that related to state financial losses, it is not necessary to ask for a written response. As a rule, the BPK Guidelines are internal rules. At the same time, the Legal Norms are rules everyone must obey; hierarchically, the law is the highest legislation after the constitution.

CONCLUSIONS

BPK is a state institution that is included in the constitutional organs. One of the leading powers of the BPK is to conduct financial audits managed by state institutions and other state administrations (in various forms). However, BPK is bound by legal principles to avoid law violations in carrying out the auditing authority. The exercise of authority that is legally acceptable, especially in this case, is the protection of human rights. To protect human rights or the rights of citizens, especially someone who is examined by the BPK by the auditor, must use the principle of assertion. The use of the principle of assertion as mandated by Article 6 Paragraph (5) of Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK) so that the report on the examination of State Financial Losses is legally valid.

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