The Audit Board Audit Authority upon State-Owned Enterprises

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ABSTRACT

The Audit Board of Indonesia performs audits on the management and the accountability of state finances, including those implemented by State-Owned Enterprises. This study aims to see the synchronization of various regulations related to the authority of Audit Board in performing state-owned enterprises audit, as well as the audit conducted by the Audit Board on state-owned enterprises in the period of 2012-2017. This research is conducted by using normative legal research method, and data collection are done through library research to find relevant data. Based on the analysis, it is known that first, the regulation of Audit Board authority over state enterprises has been synchronized in several Acts. The audit conduct by The Audit Board is the attribution authority derived from the 1945 Constitution and further regulated in Acts. Second, the implementation of state-owned enterprises audit period 2012-2017 implemented against Persero and Perum with three types of audit, namely financial, performance and a specific purpose audit.

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A. Introduction

Development activities by the government in all fields require adequate financial resources. Therefore, it is necessary to manage the state finances orderly to attain the citizens' welfare. The management of state finances that are not orderly and irresponsible such as abuse of the authority, corruption, collusion, and nepotism can affect the achievement of the state objectives. Consequently, accountable and transparent financial management is required so that every interested party can know about it.

State finance are all rights and obligations of the state that can be assessed with money, as well as everything in the form of money or goods that can be owned by the state related to the implementation of such rights and obligations, among others: the right of the state to levy taxes, the obligation of the state to carry out the public service, state/regional wealth managed solely or by other parties in the form of money, securities, accounts receivable, goods, and other rights which can be assessed by money, including wealth separated in state/ regional companies. According to Tjandra, this is a broad definition and derived from the theory of welfare state that explicitly embraced in the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945). The extent of the definition is expected to reduce the potential loss in the management of state finances due to the loopholes in the regulation.¹

The management of state finances must be conducted in an orderly manner to achieve the state objectives. One of the efforts for orderly financial management and by the rules is through an audit.² The auditing of state financial management and accountability is performed by the Audit Board (BPK) as mandated in the UUD NKRI 1945.

Before the 1998 reform, where the executive was very dominant, the position of the Audit Board depends on the President. The centralization of power to the President made the unequal power of the government of each state institution so that the state institutions are unable to implement their authority properly.³ Although the Audit Board was placed as the only external auditing institution, in reality, the government in the new order gave preference to internal supervision (BPKP) and ignored BPK as an external auditor.⁴

¹ W. Riawan Tjandra, *Hukum Keuangan Negara*, Jakarta: Gramedia Widiasarana Indonesia, (2014), p. 9

² Agung Suseno, "Eksistensi BPKP dalam Pengawasan Keuangan dan Pembangunan", *Jurnal Ilmu Administrasi dan Organisasi Bisnis dan Birokrasi*, 17, (2010), p. 15

³ Soimin and Mashuriyanto, *Mahkamah Konstitusi Dalam Sistem Ketatanegaraan Indonesia*, Yogyakarta: UII Press, (2013) , p. 83

⁴ Biro Humas dan Luar Negeri BPK, *Pokok Pikiran Anwar Nasution: Menuju Transparansi dan Akuntabilitas Keuangan Negara*, Jakarta, (2008), p. 47

Audit of State-Owned Enterprises in the new order period implemented by the government that was the Director General of State Financial Supervision (DJPKN) Ministry of Finance. DJPKN performs audits of accountants on the financial statements of state enterprises and may also carry out operational audits. DJPKN is the forerunner of a non-departmental government institution that is Financial and Development Supervisory Bodies (Badan Pengawasan Keuangan dan Pembangunan/BPKP).⁵ One of the functions of BPKP is to perform audits and give its opinion on SOEs financial statement and other bodies deemed necessary. BPKP performs supervision over all SOEs and other business entities which are all or part of their assets owned by the Central Government.⁶ Whereas in Law No. 5 on 1973 of the Audit Board, it is stated that the BPK must audit the Government's responsibility to State Finance. Auditing of the State's financial accountability, includes the implementation of the State Revenue and Expenditure Budget, the Regional Revenue and Expenditure Budget and the State-owned enterprises budget, essentially all State treasure.

Reforms create some changes, including in the management and accountability of state finances. Some legislation is made and enhanced for the creation of state financial management order. The amendment of the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945) stipulates that BPK as the only audit institution charged with the audit of management and accountability state finances. Some legislation related to state finance, management and accountability, and state financial audit are prepared based on the mandate of the UUD NKRI 1945 or the Law. Some of these regulations affirm that BPK performs the audit of SOEs.

BUMN is regulated separately in Law No. 19 on 2003 of the State-Owned Enterprises. The law regulates the audit of BUMN's financial statements conducted by external auditors stipulated by the General Meeting of the Shareholders for Persero and by the Minister for Perum, in addition to the prevailing provisions, BPK may conduct auditing of the SOEs.⁷ Auditing of financial statements is one type of the audit of management and accountability of state finance, also, there are performance audit and audit for specific purposes.⁸

The various regulations mentioned above set about the BPK audit of SOEs. Based on the explanations described, this research will raise the issue of: How does the synchronization of legal norms governing the authority of

⁵ BPKP, "Sejarah Singkat BPKP", <http://www.bpkp.go.id/konten/4/Sejarah-Singkat-BPKP.bpkp>, accessed on 6 April 2018

⁶ Article 3 of Keputusan Presiden Nomor 31 Tahun 1983

⁷ Article 71 Law No. 19 on 2003

⁸ Article 4 Law No. 15 on 2004

BPK in the audit of SOEs?; How is the implementation of management and accountability audit by BPK on SOEs for the period of 2012-2017?

B. Research Method

This research was conducted by using normative legal research method. Soekanto states that normative legal research includes research on legal principles, research on legal systematics, research on the level of legal synchronization, legal history research and comparative law studies.⁹ The researcher will undertake an inventory of all positive laws related to the research object, and examine legal principles and legal synchronization about the arrangements concerning the audit of state finances and state-owned enterprise.

Data collection is done through literature research by conducting tracking regulations, scientific books, and other data relevant to the research. Library study conducted by reviewing various literature. The literature is from the central library of BPK, the national library, the online libraries or from other internet sources relevant to the research.

The data collected is secondary data consisting of primary legal material that is material derived from regulations related to research; secondary legal materials, namely legal materials that provide explanation of primary legal materials, including the results of research in the form of books, papers, or other forms that discuss the theme relevant to the research; and tertiary legal materials, namely materials that provide guidance or explanation of primary and secondary legal materials, such as dictionaries or books in other fields of science.

C. Discussion

Article 23E of the UUD NKRI 1945 stipulates that the Audit Board is a free and independent body to audit the management of and accountability for state finances. This provision confirms that BPK is an institution that has the authority to conduct audits of state finance.

Syafrudin argued that authority is what is called formal power, power derived from the powers granted by law or legislature or from executive power. It is, therefore, the power of a certain group of people or power over a particular sphere of government or governmental affairs, whereas competence is only about a certain "*onderdeel*" (part). In authority, there is competence (*rechtbe voegdheden*). Competence is the environment of public legal action, the scope of government competence not only covers the competence to make government decisions (*bestuur*) but including the

⁹ Ahmad Zuhdi Muhdlor, "Perkembangan Metodologi Penelitian Hukum", *Jurnal Hukum dan Peradilan*, 1 (2), (2012), pp. 197-198

competence in the framework of the execution of duties. The formation and the distribution of competence are generally stipulated in the Constitution.¹⁰

According to Marbun, authority is power over a particular area of government that is formalized. Competence is the ability to act to perform certain legal relationships provided by law.¹¹ Soekanto states that the difference between power and authority that is power is the ability to influence others while authority is the power that exists on a person or group of people who have the support or gain recognition from the community.¹² Article 1 of Law No. 30 on 2014 of Administration of Government defines the competence as a right owned by the Bodies and/or Government Officials or other state organizers to take decisions and/or actions in the administration of government while the authority of government is the power of the Bodies and/or Government Official or another state organizer to act in the realm of public law.¹³

Indroharto argued theoretically, the authority derived from the legislation that is obtained in three ways, namely attribution, delegation, and mandate. Attribution is the granting of government authority by the legislator to the organ of the government, the delegation is the handover of government authority from one governmental organ to another, while the mandate occurs when the organ of government allows its authority to be run by another organ on its behalf.¹⁴ In simple terms, the authority of attribution is the authority bodies or government administrative officials obtained directly from legislation, delegation means the authority of administrative bodies/officials obtained from the delegation of other administrative bodies/administrators, and juridical responsibilities shall be transferred to the delegate's recipients. The mandate is not a transfer of the authority but the implementation of the authority by the administration on behalf of the definitive official when the definitive official is absent.¹⁵

The 1945 Constitution of the Republic of Indonesia provides the authority of attribution to BPK to conduct audits of state financial management and accountability. UUD NKRI 1945 also provides that the

¹⁰ Abdul Rasyid Thalib, *Wewenang Mahkamah Konstitusi dan Implikasinya dalam Sistem Ketatanegaraan Republik Indonesia*, Bandung: Citra Aditya, (2011), pp. 352- 353

¹¹ Abdullah Gofar, *Teori dan Praktik Hukum Acara Peradilan Tata Usaha Negara*, Malang: Tunggal Mandiri, (2014), p. 79

¹² Lukman Hakim, "Kewenangan Organ Negara Dalam Penyelenggaraan Pemerintahan", *Jurnal Konstitusi*, 4 (1), (2011), p. 115

¹³ Article 1 point 5 Law No. 30 on 2014

¹⁴ Ujang Charda S, "Potensi Penyalahgunaan Kewenangan Oleh Pejabat Administrasi Negara Dalam Pengambilan dan Pelaksanaan Kebijakan Publik", *Jurnal Wawasan Hukum*, 27 (02), (2012), p. 591

¹⁵ Sufriadi, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penyelenggaraan Pemerintahan Di Indonesia", *Jurnal Yuridis*, 1 (1), (2014), p. 61

provisions concerning state finances and BPK shall be further stipulated in the Act. State finances are regulated in Law No. 17 of 2003 on State Finance. State finance are all rights and obligations of the state that can be assessed with money, as well as everything in the form of money or goods that can be owned by the state related to the implementation of such rights and obligations, including: the right of the state to levy taxes, the obligation of the state to carry out the public service, state /regional wealth managed solely or by other parties in the form of money, securities, accounts receivable, goods, and other rights which can be assessed by money, including wealth separated in state/ regional companies.

The original 1945 Constitution of the Republic of Indonesia as well as after the changes did not define state finances. State finance based on the original 1945 Constitution according to Al Rashid is only limited to the state budget approved by the House of Representatives,¹⁶ while Attamini defines the state finance as the state budget plus after analyzing the provisions of Article 23, in the article not only discuss the state budget, so the state budget is one element in state finance.¹⁷ Asshidique expresses that in the original 1945 Constitution of the Republic of Indonesia definition of state finances is limited to the state budget. Following the amendment, state finances definition expansion is not only state budgets but includes state-owned money contained in or controlled by legal subjects or individual bodies, provided the money or assets that belong to the state.¹⁸

According to Sutedi, the definition of state finance is plastic and depends on the point of view. So that when we talk about the meaning of state finances from the government point of view, the state finance is talking about the state budget. When it is viewed from the perspective of regional government, regional finance is talking about the regional budget, as well as SOEs. So, Sutedi argues that the definition of state finance is everything related to the state budget, regional budgets, and SOEs budget.¹⁹

State financial management should be conducted in an orderly manner, and one of the efforts to realize the transparency and accountability of such management is the existence of a financial audit by a free and independent auditing body. It is one of the principles in the management of state finances.²⁰ Article 33 Law No. 17 on 2003 stipulates that the audit of state

¹⁶ Harun Al Rasid, "Pengertian Keuangan Negara", *Jurnal Hukum dan Pembangunan*, 25 (2), (1995), p. 134

¹⁷ A. Hamid S. Attamimi, "Pengertian Keuangan Negara", *Jurnal Hukum dan Pembangunan*, 11 (3), (1981), p. 234

¹⁸ Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Jakarta: Sinar Grafika, (2010), p. 165

¹⁹ Adrian Sutedi, *Hukum Keuangan Negara*, Jakarta: Sinar Grafika, (2012), p. 16

²⁰ The general principles of financial management include the annual principle, universality, result-oriented accountability, professionalism, and openness in financial management.

financial management and accountability is regulated in the Act. This Act is Law No. 15 on 2004 of Auditing Management and Accountability of State Finance.

Auditing is an independent, objective, and professional identification, analysis, and evaluation process based on the audit standards, to assess the truth, accuracy, credibility, and reliability of information on the management and the accountability of states finance.²¹ Arens et al. suggest that the audit is the collection and the assessment of evidence of information to determine and report the degree of conformity between information and defined criteria. A competent and independent person should conduct an audit.²² The auditing is carried out by BPK on all elements of state finances as stipulated in Law No. 17 on 2003 and performed with the financial, performance and a specific purpose audit.

The role of BPK as the auditor of state financial management and accountability is also regulated in Law No. 15 on 2006 of the Audit Board. This law is a mandate of Article 23G of the Constitution and also the successor of Law No. 5 on 1973 which is considered to be inconsistent with the development of the constitutional system. Article 6 paragraph (1) Law No. 15 on 2006 stipulates that BPK is responsible for auditing the management and accountability of state finances conducted by the Central Government, Regional Government, other State Institutions, Central Bank of Indonesia, State-Owned Enterprises, Public Service Bodies, Regional-Owned Enterprises, and other institutions or bodies that manage State finances. This audit is conducted by the provisions set in Law Number 15 of 2004. These provisions affirm the authority of BPK to conduct an audit of the management and accountability of state finances including SOEs.

SOEs are also regulated in their Law. Fundamentally, the establishment of SOEs is a mandate of Article 33 Constitution. The state controls production branches that are important and control the livelihood of the people. To carry out this mandate, the Government needs to increase the control of national economic power, either through sectoral regulation or through state ownership of certain units to provide optimal benefits to the community.

SOE is a business entity which is wholly or most of its capital owned by the state through direct participation derived from separated state wealth. SOE consists of Persero and Perum. Persero is a state-owned enterprise which is a limited liability company whose capital is divided into shares of which the state owns all or at least 51% of its shares with the main objective of pursuing profit. Perum is a state-owned enterprise whose capital is not

²¹ Article 21 point 1 Law No. 15 on 2004

²² Alvin Arens, et.al, *Auditing and Assurance Services An Integrated Approach.*, New Jersey, : Pearson Education Limited, (2017), p.28

divided into shares and wholly owned by the state for general benefit in the form of providing goods and services of high quality and at the same time pursuing profit.²³

The SOE Act is designed to create a management and supervision system based on the efficiency and the productivity principles to improve performance and value and avoid state-owned enterprises from actions beyond the principles of good corporate governance. SOEs need to cultivate a corporate culture and professionalism, among others, through improvements management and supervision to optimize its role and able to maintain its existence in competitive economic development.

Law Number 19 of 2003 on SOEs stipulates that the financial statements of SOEs for Persero are audited by an external auditor appointed by the General Meeting of Shareholders and appointed by the Minister for Perum. An audit was conducted to get an opinion on the fairness of the presentation of financial statements. By the provisions applicable to Persero, the audit of Persero's financial statements shall be executed by a public accountant under the provision of Article 68 paragraph (1) sub-paragraph d Law Number 40 of 2007 on the Limited Liability Company. The provisions governing that public accountants audit the financial statements of Limited Liability Companies are also contained in Article 68 Law Number 8 of 1995 on the Capital Market. This auditing by a public accountant is not the sole audit by an external auditor; the audit board also has the authority to perform an audit of the SOEs.²⁴

Law Number 15 of 2004 and Law Number 15 of 2006 accommodate the existence of parties other than BPK who perform an audit on the management and the accountability of state finances. Article 3 paragraph (2) Law Number 15 of 2004 and Article 6 paragraph (4) Law Number 15 2006 stipulates that if the provisions of other laws state that a public accountant conducts the auditing, the report on of audit shall be submitted to The Audit Board. The Audit Board then evaluates the results of the public accountant's audit and subsequently submits the result of the evaluation and the result of auditing of the public accountant to the representative institution to be followed up by the provisions.

The various regulations are by the legal level theory of Hans Kelsen. According to Kelsen, the level of legal norms or *stufentheorie* is tiered and layered in a hierarchy. That is, a lower norm applies, sourced and based on higher norms, and so on until a further non-traceable norm is the Basic Norm/ *Grundnorm*.²⁵ A legal norm is always sourced and based on the

²³ Article 1 Law No. 19 on 2003

²⁴ Article 71 Paragraph 2 Law No. 19 on 2003

²⁵ Maria Farida Indrati S, *Ilmu Perundang-undangan, Jenis, Fungsi dan Materi Muatan*, Yogyakarta: Kanisus, (2007), p. 41

norms that exist above it and becomes the source and basis for lower norms so that if the basic norms change then the norm system under it becomes damaged.²⁶ Hans Nawiasky developed this theory under *the theory von stufenaufbau der rechtsordnung*, by grouping legal norms into four levels consisting of *Staatsfundamentalnorm* (State Fundamental Norms), *Staatsgrundgesetz* (Basic Rules of State), *Formell Gesetz* (Formal Act); and *Verordnung & Autonome Satzung* (implementing and autonomous rules). Nawiasky further states that the basic norms of a country should not be called *staatsgrundnorm* but the *fundamental norms*.²⁷

Attamimi describes the structure of Indonesian legal hierarchy using Hans Nawiasky's theory. Based on the theory, the structure of the Indonesian legal system is listed as follows:

1. *Staatsfundamentalnorm*: Pancasila (Constitution Preamble)
2. *Staatsgrundgesetz*: The Body of Constitution, the Resolution People's Consultative Assembly, and the Constitutional Convention
3. *Formell Gesetz*: Act/Law
4. *Verordnung & Autonome Satzung*: hierarchically from the Government Regulation to the Decision of the Regent or Mayor.²⁸

The structure of the current legal hierarchy refers to Law Number. 12 of 2011 on the Establishment of Legislation. The types and hierarchies of applicable rules are mentioned as follows:

1. The Constitution of the Republic of Indonesia Year 1945;
2. The Resolution of the People's Consultative Assembly;
3. Law/Government Regulation in Lieu of Law;
4. Government Regulation;
5. Presidential Regulation;
6. Provincial Regulations; and
7. Regency/City Regulations.²⁹

The synchronization of legal systematics related to the regulation of the authority of the BPK audit on SOEs based on the theory can be explained as follows;

1. *Staatsfundamentalnorm*: Constitution Preamble
Pancasila as the source of all state laws listed in the Constitution preamble, also, in the preamble are listed the state's objectives.
2. *Staatsgrundgesetz*: The Body of Constitution
Article 23E regulates the BPK authority to audit the financial management and accountability of state finances. State finance is not

²⁶*Ibid*

²⁷Jimly Asshiddiqie dan M Ali Safa'at, *Teori Hans Kelsen tentang Hukum*, Jakarta: Konstitusi Press, (2006), p. 170

²⁸*Ibid*, p. 171

²⁹*Ibid*, Article 7 paragraf (1) Law No. 12 on 2011

regulated in the Constitution, but in Article 23C it is stipulated that matters concerning state finances will be regulated in a Law. Article 33 of the Constitution provides that the state controls the production branch which is important for the state and the control over the life of the people. The national economy is organized by economic democracy with the principle of togetherness, fair efficiency, sustainable, environmentally friendly, independence, and by maintaining the balance of national economic progress and unity.

3. *Formell Gesetz: Act*

Law Number 17 of 2003 on State Finances constitutes a mandate of Article 23C of Constitution. Law No. 17/2003 arranged set among other things about the definition of state finance, the elements included in it, including state assets separated on state-owned enterprises. This Law also mandates the establishment of the Law for the audit of state financial management and accountability. Law Number 15 of 2004 on Audit of State Financial Management and Accountability is the law as the basis for the implementation of an audit conducted by BPK. This audit shall be conducted by BPK on all elements of state finance as referred to in Law No. 17 on 2003. The authority of BPK audit is also regulated in Law No. 15 on 2006 of Audit Board. BPK audits management and accountability of state finances conducted by the Central/Regional Government, other State Institutions, SOEs, and other institutions or bodies that manage state finances.

SOE is one of the economic party in the national economy based on the economic democracy, and some of them affect the livelihood of the people or important for the state by the provisions in Article 33 of Constitution. SOEs have been regulated in Law No. 19 on 2003 of State Owned Enterprises. This Act among others regulates the definition of SOEs, supervision of SOEs. Audit of SOEs is carried out by BPK and public accountants. The regulation concerning audit of state-owned company's financial statements by the public accountant is also regulated in Law Number 8 of 1995 on Capital Market and Law No. 40 on 2007 of Limited Liability Company.

Law No. 15 on 2004 and Law No. 15 on 2006 also acknowledged the audits conducted by public accountants. Results of a public accountant audit must be submitted to BPK, BPK then will evaluate the results and submit the results to the representative institution.

4. *Verordnung& Autonome Satzung: Audit Board Rules*

There are provisions in the Law regulating the derivative provisions of the Act, such as the preparation of audit standards by the audit board.

Some of the regulations in the Law are used as the basis audit of SOEs by Audit Board; this is by the principle of legality³⁰ which means that the actions of the administration of government prioritize the legal basis of a decision and action made by the Bodies or Government Officials. BPK audit of SOEs by several general principles of state administration.³¹ BPK audit of SOEs has been by; first, the principle of legal certainty, which prioritizes the basis of legislation, propriety, and justice in every policy of state organizers. BPK audit of SOEs has been regulated in various interconnected Laws. Secondly, the principle of openness, which means the public is entitled to obtain correct information about the administration of the state. The public can know and get information about the results of SOEs audit conducted by BPK. Third, the principle of professionalism, the principle that prioritizes the skills based on the code of ethics and regulations. Fourth, the principle of accountability which means that every activity and the result of the activities of the state organizers can be accountable to the people by the provisions. BPK audit is to show state financial management conducted by SOEs, and also generates auditing reports as a form of BPK accountability.

The number of SOEs in 2012 amounts to 140 companies consisting of 107 Persero, 19 Public Company Persero and 14 Perum, and in 2017 decreased to 115 SOEs consisting of 84 Persero, 17 Public Company Persero and 14 Perum. This decrease is due to several reasons, namely; first, the establishment of new SOEs such as PT Inalum. Second, the change in legal entity status such as Perum Pegadaian changed to PT Pegadaian. Third, the merger, PT Reasuransi Umum Indonesia merger into PT Reasuransi Indonesia Utama. Fourth, the formation of state-owned holding companies, for example, the establishment of 14 state-owned plantations into one holding state-owned plantation. Fifth, Sale or transfer of government shares to other SOEs, such as government shares in PT Sarana Karya which are sold to PT Wijaya Karya.³²

The Audit conducted by BPK consists of financial, performance and specific purpose audit. A financial audit is an audit of financial statements. This audit aims to provide opinions on the fairness of the information presented in the financial statements. A performance audit is an audit of the economic aspects, efficiency and effectiveness of state financial management that aims to identify issues that need attention from representative institutions, as for the government to carry out activities running economically, efficiently and effectively. Specific purpose audit is

³⁰ Article 5 Law No. 30 on 2014

³¹ Article 3 Law No. 28 on 1999

³² Kementerian BUMN, *Statistik Jumlah BUMN*, <http://www.bumn.go.id/berita/0-Statistik-Jumlah-BUMN>, accessed on May 2, 2018

an audit that does not include a financial and performance audit. Specific purpose audit may take the form of compliance or investigative audits.³³

From 2012 to 2017, BPK has conducted audits of SOEs with three types of the audit with details as follows:

Table 1. Audit SOEs Period 2012-2017

Year	Finance		Performance		Specific Purpose	
	Persero	Perum	Persero	Perum	Persero	Perum
2012	1		10	1	44	2
2013		4	4	1	46	3
2014		2	8		33	3
2015			10		41	4
2016		1	7	1	35	3
2017			15		38	5
Total	1	7	54	3	237	20

Source: data is processed based on IHPS BPK 2012 until 2017

BPK audits of SOEs amounted to 322 audits consisting of 8 financial audits, 57 performance audits and 257 a specific purpose audit. The quantity of BPK audits from 2012 to 2017 each year ranges from 46 to 58 audits. If only compared between the audit with the total of SOEs, BPK audits between 39-50% of the number of existing state enterprises. However, the percentage does not describe the fact of the audit conducted. Based on the data obtained, it is known that, First, audits of BPK on SOE is held with financial, performance and specific purpose audit. Financial audits conducted eight examinations consisting of 1 examination of financial statements of PT Jamsostek Fiscal Year 2011 and six examinations of financial statements Perum Film Fiscal Year 2007-2012, and one audited financial statements Perum Peruri Fiscal Year 2015. Although the Law on State-Owned Enterprises and related Law stipulates that for the audit of Persero's financial statements carried out by public accountants, in 2012 BPK performs an inspection of the financial statements of PT Jamsostek in 2011. This audit is based on the request of the House of Representatives to BPK to audit the financial statements and placement of funds PT Jamsostek before PT Jamsostek changed the Social Security Administering Body.³⁴

Second, several SOEs are audited more than once a year. For example PT PLN, in 2014 audited four times with audit object of electricity subsidy, purchasing and leasing of electric power, purchasing of coal and fuel oil, and unassigned government assistance. Audits of SOEs more than once a year

³³ Paragraf 18 Conceptual Framework Of State Financial Auditing Standards, Audit Board Rule Number 1 of 2017 on State Financial Auditing Standards

³⁴ Suhartono, "BPK Segera Audit PT Jamsostek", <https://megapolitan.kompas.com/read/2011/11/23/09511362/bpk.segera.audit.pt.jamsostek>, accessed on April 6, 2018

are generally experienced by SOEs that receive government assignments related to subsidies and public service obligations. Third, SOEs that received assignments related to subsidies and public service obligations are almost audited each year. The SOEs that receive this assignment include PT Pupuk Iskandar Muda, PT Petrokimia Gresik, PT Pupuk Sriwijaya, PT Pupuk Kaltim for fertilizer subsidy, PT Pelni and KAI for public service obligations, PT PLN for electricity subsidy, PT Pertamina for certain fuel subsidies and LPG, and Perum Bulog for subsidizing rice. This audit is conducted among others related to the determination of the amount of subsidy that becomes government obligation to be paid to SOEs. Fourth, during the period 2012-2017, not all SOEs are audited by BPK, on the other hand, there are several SOEs that are audited more than once during this period. For example, Bulog, if the audit object is a calculation of rice subsidy is conducted annually, then during the period 2012-2017, the audit subsidy is carried out six times and does not include with other audit objects, during PT. Djakarta Lloyd or Perum PPD is not undergoing audited during the period

D. Conclusion

Based on the above research, the research could be concluded that Pancasila is a *Staatsfundamentalnorm* which became the source of all legal and basic sources in determining the basic rules of the state. *Staatsgrundgesetz* is reflected in the basic rules of state finance, Audit Board audit, and SOEs arranged in Articles 23 and 33 of the 1945 Constitution of the Republic of Indonesia. *Formell Gesetz* is arranged in the form of Act. Law Number 17 of 2003 on State Finance, Law Number 19 of 2003 on State Owned Enterprise, Law Number 15 of 2004 on Auditing Management and Accountability of State Finance, Law Number 15 of 2006 on Audit Board has included provisions that are synchronized between each other and affirms that Audit Board is authorized to conduct audit of SOEs. The State-Owned Enterprise Law also regulates audits conducted by public accountants by the provisions contained in Law Number 8 of 1995 and Law Number 40 of 2007. On this matter, Law Number 15 of 2004 and Law Number 15 of 2006 has accommodated the existence of this provision and stipulates that if the audit carried out by public accountants, then the results of the audit shall be submitted to the Audit Board for the evaluation. The provisions in legislation regarding the authority of the BPK audit of SOEs have been in sync with each other, complementary and by the above legal norms.

BPK audit of SOEs is carried out with three types of audits: financial, performance and specific purpose audit, and the most widely performed are specific purpose audit. Audits were carried out either on Persero or Perum.

Several SOEs, generally getting government assignments related to subsidies audited more than once a year, on the other hand, there was some SOEs, not audit during that period. Therefore, it is advisable for BPK to conduct an audit on every SOE to create justice for every SOE and to ensure that the management and the accountability of state finances in SOEs have been implemented in accordance with regulation. Performance audit also needs to be improved so that it is expected to improve the performance of state financial management and accountability.

Bibliography

Book

- Arens, Alvin, A. and James, K. Loebbecke. (2017). *Auditing and Assurance Services an Integrated Approach*. New Jersey: Prentice-Hill Inc
- Asshiddiqie, Jimly. (2010). *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*. Jakarta: Sinar Grafika.
- Asshiddiqie, Jimly and M Ali Safa'at. (2006). *Teori Hans Kelsen tentang Hukum*. Jakarta: Konstitusi Press
- BPK, Biro Humas dan Luar Negeri. (2008). *Pokok Pikiran Anwar Nasution: Menuju Transparansi dan Akuntabilitas Keuangan Negara*. Jakarta.
- Gofar, Abdullah. (2014). *Teori dan Praktik Hukum Acara Peradilan Tata Usaha Negara*. Malang: Tunggal Mandiri
- Indrati S, Maria Farida. (2007). *Ilmu Perundang-undangan, Jenis, Fungsi dan Materi Muatan*. Yogyakarta: Kanisius
- Rasyid Thalib, Abdul. (2011). *Wewenang Mahkamah Konstitusi dan Implikasinya dalam Sistem Ketatanegaraan Republik Indonesia*. Bandung: Citra Aditya
- Soimin and Mashuriyanto. (2013). *Mahkamah Konstitusi Dalam Sistem Ketatanegaraan Indonesia*. Yogyakarta: UII Press
- Sutedi, Adrian. (2012). *Hukum Keuangan Negara*. Jakarta: Sinar Grafika.
- Tjandra, W. Riawan. (2014). *Hukum Keuangan Negara*. Jakarta: Gramedia Widiasarana Indonesia

Journals

- A. Hamid S Attamimi. "Pengertian Keuangan Negara", *Jurnal Hukum dan Pembangunan*, 11 (3), (1981).
<https://doi.org/10.21143/jhp.vol11.no3.846>
- Agung Suseno, "Eksistensi BPKP dalam Pengawasan Keuangan dan Pembangunan", *Jurnal Ilmu Administrasi dan Organisasi Bisnis dan Birokrasi*, 17, (2010)
- Ahmad Zuhdi Muhdlor, "Perkembangan Metodologi Penelitian Hukum", *Jurnal Hukum dan Peradilan*, 1 (2), (2012)

- Harun Al Rasid. "Pengertian Keuangan Negara", *Jurnal Hukum dan Pembangunan*, 25 (2), (1995).
<https://doi.org/10.21143/jhp.vol25.no2.473>
- Lukman Hakim. "Kewenangan Organ Negara Dalam Penyelenggaraan Pemerintahan", *Jurnal Konstitusi*, 4 (1), (2011)
- Sufriadi, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penyelenggaraan Pemerintahan Di Indonesia", *Jurnal Yuridis*, 1 (1), (2014)
- Ujang Charda S. "Potensi Penyalahgunaan Kewenangan Oleh Pejabat Administrasi Negara Dalam Pengambilan dan Pelaksanaan Kebijakan Publik", *Jurnal Wawasan Hukum*, 27 (02), (2012)

Legislation

- Republic of Indonesia Law No. 8 on 1995
Republic of Indonesia Law No. 17 on 2003
Republic of Indonesia Law No. 19 on 2003
Republic of Indonesia Law No. 15 on 2004
Republic of Indonesia Law No. 15 on 2006
Republic of Indonesia Law No. 40 on 2007
Republic of Indonesia Law No. 12 on 2011
Republic of Indonesia Law No. 30 on 2014
The Constitution of the Republic of Indonesia 1945

World Wide Web

- BPKP, "Sejarah Singkat BPKP", <http://www.bpkp.go.id/konten/4/Sejarah-Singkat-BPKP.bpkp>, accessed on April 6, 2018
- Kementerian BUMN, "Statistik Jumlah BUMN", <http://www.bumn.go.id/berita/0-Statistik-Jumlah-BUMN>, accessed on May 2, 2018
- Suhartono, "BPK Segera Audit PT Jamsostek", *Kompas* 23/11/2011, <https://megapolitan.kompas.com/read/2011/11/23/09511362/bpk.segera.audit.ptjamsostek>, accessed on April 6, 2018