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Reconstruction of the Regulation of the Quasi-Judicial Authority of the Supreme Audit Agency over the Treasurer in Fulfilling the Element of Legal Certainty

Supriyonohadi[1], Lego Karjoko[2], Waluyo[3]
[1] Sebelas Maret University, Indonesia, email: supriyonohadi@ student.uns.ac.id
[2] Sebelas Maret University, Indonesia. Email: legokarjoko@staff.uns.ac.id
[3] Sebelas Maret University, Indonesia. Email: waluyo.fh@staff.uns.ac.id

Abstract

The Audit Board of Indonesia (Financial Audit Agency—BPK), through its Summary of Semester Audit Results (Ihtisar Semester Audit Results—IHPS), reports that state financial losses attribute to treasurers (treasury claim cases) remain significant despite advances in modern public financial management. As a constitutional body endowed with quasi-judicial authority to assess and determine state financial losses attributable to treasurers, BPK has established an administrative mechanism for resolving such losses through BPK Regulation No. 3 of 2007 on the Procedures for the Settlement of State Financial Losses Involving Treasurers. The authority and regulatory framework are intended to enable BPK to process treasury claims in a manner that upholds the principle of legal certainty. This normative legal study, employing statutory and conceptual approaches alongside ontological and ratio legal analyzes of BPK's quasi-judicial authority, demonstrates that asymmetric information in the management of state finances provides the ratio legal underpinning BPK's authority to assess and determine state losses involving treasurers. Nevertheless, several fundamental procedural safeguards remain inadequately incorporated into BPK's quasi-judicial proceedings. To enhance legal certainty, the mechanism for resolving state financial losses involving treasurers through BPK decisions should be reconstructed through the revision of BPK Regulation No. 3 of 2007. Such reform should incorporate fundamental principles of due process, particularly the audi alteram partem principle by ensuring the treasurer's direct and meaningful participation in the evidentiary and decision-making process. Furthermore, administrative efficiency and clarity of authority can be strengthened by reducing the existing span of control and enhancing the procedural and evidentiary role of BPK's Regional Offices across provinces, as expressly provided for in the revised BPK Regulation.

Keywords: Audit Board of the Republic of Indonesia (BPK); Quasi-Judicial Authority; State Financial Losses, Treasury Claim Cases.

1. INTRODUCTION

To achieve *good governance* in state administration, state management must be carried out professionally, transparently, and responsibly in accordance with the principles of state financial management[1]. Mistakes in budget utilization can lead to misuse and result in state losses[2]. State losses arising from errors in state financial management,

[1]Bambang Tjahjadi et al., "Heliyon Good Corporate Governance and Corporate Sustainability Performance in Indonesia : A Triple Bottom Line Approach," *HLY* 7, no. 3 (2021): e06453, https://doi.org/10.1016/j.heliyon.2021.e06453.

[2]Franklin Nakpodia et al., "Sustainable Development Goals , Accounting Practices and Public Financial Management : A Pre and Post COVID-19 Assessment," *The British Accounting Review*, no. August 2023 (2024): 101466, https://doi.org/10.1016/j.bar.2024.101466.

 DOI: http://dx.doi.org/10.29303/ius.v14i2.1928

whether intentional or negligent, must be promptly recovered through repayment to the state treasury[3].

Contemporary scholarship likewise emphasizes that the management of public assets is not merely an economic or managerial activity but a public-law function requiring binding rules grounded in transparency, accountability, participation, and the rule of law. Such regulatory certainty is essential to ensure that the exercise of authority over state assets remains accountable and directed toward the protection of public interests.[4] Article 59 of Law Number 1 of 2004 concerning State Treasury stipulates that any state/regional loss caused by an unlawful act or negligence of a person must be immediately settled in accordance with the provisions of applicable laws. [5]Treasurers, non-treasurer civil servants, or other officials who, due to their actions in violation of the law or neglect of obligations imposed on them, directly harm state finances, are required to compensate for such losses. [6]Every head of a state ministry/institution/head of a regional work unit may immediately file a claim for compensation, after learning that in the state ministry/institution/regional work unit concerned, losses have occurred due to the actions of any party. [7]BPK's authority to assess and determine state losses involving treasurers is grounded in Article 62 paragraph (1) and (2) of Law Number 1 of 2004 concerning State Treasury, which provide that (1)compensation for state/regional losses on treasurers is determined by the Audit Board; (2) If in the audit of state/regional losses as referred to in paragraph (1) criminal elements are found, the Audit Board will follow up in accordance with applicable laws and regulations.

The term "imposition of state compensation" as contained in the provisions of Law No. 1 of 2004 concerning the State Treasury is then further specified as the assessment and/or determination of state losses by the BPK with subjects specifically regulated in Law No. 15 of 2006 concerning the Audit Board. Based on Article 10 paragraph (1) of Law No. 15 of 2006, the BPK has the authority to assess and determine the amount of state losses resulting from unlawful acts, whether intentional or negligent, committed by treasurers, managers of BUMN/BUMD, and other institutions or bodies that manage state finances.[8] Based on the provisions above, the BPK possesses the authority to assess and/or determine state losses not only for treasurers, but also for BUMN/BUMD managers, and other institutions or bodies that manage state finances.

In carrying out its functions, BPK exercises quasi-judicial authority in the assessment and determination of treasury claims involving treasurers. The BPK's task of determining and assessing state losses by treasurers is carried out as part of the process of recovering state finances and resolving state losses administratively.

The administrative recovery of state losses outside the courts in Indonesia can be traced historically to the enactment of *the Indonesian Comptabilities Law* (ICW). The ICW recognizes two forms of state compensation settlement: Compensation Claims

[3]Nizam Burhanuddin, *State Financial Law* (Yogyakarta: Total Media, Print-1, 2015), 183.

[4]Syamsir et al., "State Asset Management in the Framework of Good Governance and International Law for Sustainable Development," *Jambura Law Review* 8, no. 1 (2026): 250–51.

[5]Indonesia, Law on State Treasury, Law no. 1 of 2004, LN No.5 of 2004, TLN No. 4355, Ps. 59 paragraph (1).

[6]Indonesia, Law on State Treasur, Article 59 paragraph (2)

[7]Indonesia, Law on State Treasur, Article 59 paragraph (3)

[8]Indonesia, *Law on the Audit Board*, Law No. 15 of 2006, Article 10.

(TGR) [9]and Treasury Claims (TP), both of which are implemented outside the general judicial mechanism, either through criminal or civil proceedings.[10]

Cases of state losses resulting from unlawful acts or negligence by treasurers remain a significant issue in state financial management[11]. Based on the monitoring results of state/regional compensation reported in the Summary of Audit Results for Semester I of 2024, there were 151 Treasury Claims cases involving Central Government audit entities that had received determinations, with a total value of Rp58,859,918,330[12]. 30 Of this amount, 48 cases amounting to Rp2,595,963,299.48 have been settled, and thirteen cases amounting to Rp1,944,824,212.92 have had their receivables written off absolutely. Meanwhile, 78 cases are still in the installment process amounting to Rp15,033,208,325.48 and twelve cases amounting to Rp39,285,922,492.42 have not been paid in installments.[13] In addition, recent scholarship indicates that difficulties in recovering state losses cannot be understood merely as a problem of financial reimbursement. Fragmentation among administrative, civil, criminal, and financial-law mechanisms may weaken accountability, institutional coordination, and the effectiveness of recovery, making normative coherence an important component of legal certainty.[14]

In the Regional Government, cases of regional cash shortages caused by treasurers who have received a determination amounted to 1,752 cases with a value of Rp451,135,802,929.57. A total of 400 cases with a value of Rp44,517,661,609.19 are in the installment process, and 1,046 cases worth Rp36,007,510,247.41 have been settled, and six cases worth Rp1,002,462,409.00 have been completely written off. As for cases that have not been settled or paid in installments, there are 300 cases worth Rp369,608,168,663.97. [15]The IHPS data above show that treasury claim cases remain significant despite advances in modern public financial management. Although developed in the context of corruption law, recent normative research on state losses similarly shows that ambiguity in the legal definition, evidentiary parameters, and methodology for determining losses may cause inconsistent interpretations as well as undermining legal certainty. This condition reinforces the need for state-loss determinations to rest on clearly defined substantive and procedural standards.[16]

In accordance with the mandate of Article 10 paragraph (1) of Law No. 15 of 2006, the BPK issued BPK Regulation Number 3 of 2007 concerning Procedures for

[9]Treasury Claims for Civil Servant Treasurers are regulated by BPK Regulation Number 3 of 2007 concerning Procedures for Compensation of State Losses by Treasurers. While Compensation Claims are the process of prosecution (assessment and determination) and recovery of state losses caused by unlawful acts by non-treasurer Civil Servants, which are determined by the head of the Agency. The implementing regulation of the TGR is Government Regulation Number 38 of 2016 concerning Procedures for Compensation Claims for State/Regional Losses against Non-Treasurer Civil Servants or Other Officials.

[10]The authority to make treasury demands previously came from Article 58 of the ICW which stated that the Decision of the Audit Board of Indonesia, which stipulates an amount of money, which in matters concerning the management of the Treasurer, must be reimbursed to the State, or where a fine is imposed on a Treasurer, is issued in the name of justice. The assessment and determination are by a decision of the BPK. A copy of the decision is headed: "In the Name of Justice", which is signed by the Chairman of the BPK, has the same power and is implemented in the same way, as a judge's decision (verdict) which has permanent force in civil cases.

[11]Afzal Izzaz Zahari et al., "Impact of Forensic Accounting on Fraud Detection and Prevention: A Case of Firms in Pakistan," *Journal of Financial Crime*, ahead of print, 2025, https://doi.org/https://doi.org/10.1108/JFC-01-2021-0013.

[12]Especially for cases of losses with the rupiah exchange rate.

[13]Financial Audit Agency, Summary of Audit Results for Semester I 2024, Financial Audit Agency, Jakarta, 202 4, Appendix E.2.2., p. 238.

[14]Fitria et al., "Reconstructing State Loss Recovery Mechanisms for Good Governance Resulting from Abuse of Authority in Environmental Management in Indonesia," *Jambe Law Journal* 8, no. 2 (2025): 915–18.

[15]Fitria et al., "Reconstructing State Loss Recovery Mechanisms for Good Governance Resulting from Abuse of Authority in Environmental Management in Indonesia,", p. 241.

[16]Aji Rahmadi, Lego Karjoko, and Hartiwiningsih, "The Price of Corruption on State Losses Policy," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 8, no. 2 (2025): 479–82.

Settlement of State Losses to the Treasurer. The BPK Regulation stipulates that the assessment and/or determination of state losses by the BPK are conducted through the Treasury Claims Council (MTP). Technical provisions governing the assessment and determination process through BPK decision, as well as the procedural rules of the Treasury Claims Council, are set out in BPK Decree Number 5/K/I-XIII.2/7/2011 concerning the Working Procedures of the Treasury Claims Council. The MTP Council consists of eight members, consisting of a chairman of the council and seven members of the council. The Chairman of the Council is held by the Deputy Chairman of the BPK (*ex-officio*) and the members of the council are members of the BPK (excluding the Chairman of the BPK).[17]

The characteristics of the BPK decision concerning the imposition or exemption of liability for state/regional losses are theoretically concrete and individual in nature, resembling the legal character of judicial decisions. Therefore, in essence, the BPK has a semi- or quasi-judicial function. [18]Historically, this quasi-judicial function can be traced to the ICW, which provided that a BPK's decision headed: "In the Name of Justice" had the same legal force and was enforceable in the same manner as a final judicial decision (verdict).[19]

Constitutionally, the BPK has no hierarchical institutional relationship with the Supreme Court, and the existing legal framework does not expressly provide coercive powers for the exercise its authority to assess and determine state or regional losses, either during the examination process (summoning treasurers, witnesses or experts) or in enforcing its decisions[20]. The BPK's authority is primarily to assess and determine liability, while the enforcement of its decisions depends on the legally designated institutions and mechanism[21]. This tension between formal institutional authority and practical enforceability is not unique to BPK. Studies of other independent oversight institutions in Indonesia have shown that a strong statutory mandate does not necessarily produce effective compliance where the legal consequences and enforcement mechanisms of institutional decisions or recommendations remain limited. Such a disparity between *de jure* authority and *de facto* implementation may ultimately weaken administrative accountability.[22]

Indications that the assessment and determination of state losses involving treasurers may not yet fully satisfy the requirements of legal certainty[23] can be observed in the judicial challenge before the State Administrative Court (PTUN) against BPK's Imposition Decree (SKP) involving the treasurer of Sultan Syarif Kasim State Islamic

[17]Audit Board of Indonesia, BPK Decree on the Working Procedures of the Treasury Council, Number 5/K/I-XIII.2/7/2011, Article 2.

[18]Jimly Asshiddiqie, *Principles of Indonesian Constitutional Law Post-Reformation*, (Jakarta: PT Bhuana Ilmu Populer, Second Edition, 2008), 862-863

[19]Article 58 of the ICW, in full, reads: "The decision of the Audit Board of Indonesia, which determines an amount that, in matters concerning the management of the Treasurer, must be reimbursed to the State, or which imposes a fine on a Treasurer, is issued in the name of justice. A copy of the decision headed: "In the name of Justice", signed by the Chairman of the Audit Board of Indonesia has the same power and is implemented in the same way, as a judge's decision (verdict) which has a permanent legal decision in civil cases.

[20]Reuse This et al., "Article : Public Sector Performance Auditing in a Political Hegemony : A Case Study of Indonesia," *Wiley*, ahead of print, 2021, https://doi.org/10.1111/faam.12296.

[21]Sumiyana Sumiyana et al., "Public Sector Performance Auditing in a Political Hegemony : A Case Study of Indonesia," *Financial Accountability & Management*, no. March (2021): 691–714, https://doi.org/10.1111/faam.12296.

[22]Sulistyowati, Dewi Nadya Maharani, and Gusti Bintang Maharaja, "Disparity in Authority and Effectiveness of Ombudsman's Recommendations in Preventing Maladministration," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 25, no. 2 (2025): 182–85.

[23]Baren Sipayung et al., "Dualisme Kewenangan Penetapan Kerugian Negara Oleh BPK Dengan Penetapan Uang Pengganti Oleh Badan Peradilan Dalam Penyelesaian Kerugian Negara / Daerah Yang Dilakukan Oleh Bendahara," *JIIP (Jurnal Ilmiah Ilmu Pendidikan)* 7 (2024): 4648–56.

University, Riau. As reported by *detik.com* on November 18, 2021,[24] the Jakarta PTUN decision No. 3/G/2021/PTUN.JKT, granted the claim brought by the UIN Suska Riau treasurer against the BPK;[25] however, on appeal, the Jakarta PTUN, in decision number 199/B/2021/PT.TUN.JKT dated November 15, 2021, accepted BPK's appeal. The susceptibility of an administrative decision to judicial review also demonstrates that legal certainty cannot be derived merely from the formal finality of the issuing authority's decision. In the administrative-law context, regulatory coherence between the substantive decision-making regime and the judicial-review regime is necessary to prevent uncertainty concerning the rights of affected parties and the legal consequences of administrative decisions[26]

The results of the initial identification of various laws and regulations related to the settlement of state losses to treasurers through the issuance of BPK Decisions are as follows:[27]

1. The authority to assess and/or determine state losses involving treasurer is exercised by the Treasury Claims Council, which consists of BPK members. The existing framework does not expressly provide for the distribution of these functions to other BPK implementing units, either at the central level or through BPK Representative Offices in the regions;
2. BPK Regulation Number 3 of 2007 does not explicitly guarantee the treasurer an opportunity to be heard and to participate in the evidentiary examination before the MTP, while BPK Charge Decision remain vulnerable to being challenged;
3. There are no regulations regarding the classification of the value of state losses that must be determined by the BPK MTP, so that no matter how small the value of state losses caused by the Treasurer, it must still be assessed/determined by the BPK MTP;
4. There is no separation of procedures for settling state losses that are caused purely by administrative errors in the form of negligence, and state losses that occur due to deliberate acts by the treasurer;
5. The assessment and determination of state/regional losses by BPK have not been sufficiently effective in recovering losses, partly because the regulatory framework remains incomplete and the enforcement mechanisms governing seizure and auction in Treasury Claims cases remain limited.
6. Non-compliance by agencies in processing compensation for treasurers and following up on the Supreme Audit Agency's (BPK) Decision on the Assessment and Determination of Losses. This occurs, among other things, due to the lack of norms that encourage a culture of reporting and resolving state/regional losses that occur within the authority of agency leaders (*legal culture*).

[24] Raja Adil Siregar, "Losing Appeal, UIN Riau Employee Must Replace IDR 700 Million Lost in Robbery", news article on detik.com dated November 18, 2021, as accessed at https://news.detik.com/berita/d-5816966/kalah-banding-pegawai-uin-riau-wajib-ganti-rp-700-juta-yang-hilang-dirampok dated June 10, 2025.

[25] Raja Adil Siregar, "Demanded to Pay Rp 700 Million in Compensation, 2 UIN Suska Employees Win BPK Lawsuit", news article on detik.com dated July 6, 2021, as accessed at https://news.detik.com/berita/d-5633294/dituntut-ganti-uang-rp-700-juta-2-pegawai-uin-suska-menang-gugat-bpk?page=2 dated June 10, 2025.

[26] Fajar Ramadhan Kartabrata, Moch Erick Ernawan, and Irfan Alfieansyah Dwinanda, "Harmonizing the Administrative Court Legal System to Ensure Legal Certainty in the Administrative Lawsuit Time Limit," *LITIGASI* 26, no. 2 (2025): 1–36.

[27] Processed from various sources, including discussions and interviews with the Head of the State Loss Clerkship Section as the Substitute Clerk of the BPK Treasury Claims Council on June 12, 2024, Review of Law No. 1 of 2006 concerning the BPK, Law No. 1 of 2004 concerning the State Treasury, and BPK Regulation Number 3 of 2007 concerning Procedures for Settlement of State Loss Compensation for Treasurers.

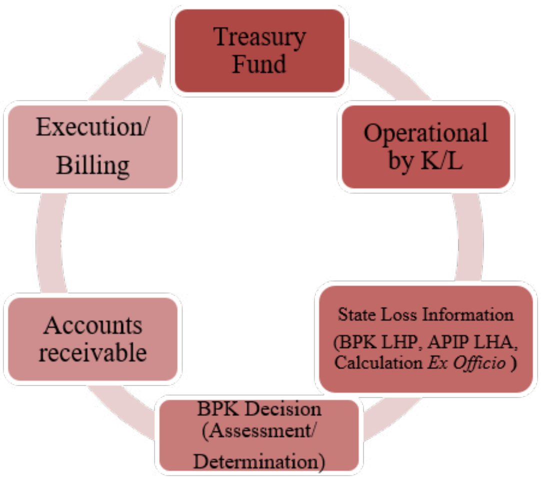
7. There are cases in which state losses have been fully repaid but remain administratively unresolved because the formal assessment and/or determining process has not been completed.

In general, in any study of state losses[28], the primary objective of the state loss settlement process is the return of the loss value to the state treasury (*asset and cash recovery*)[29]. However, the return to the state treasury does not automatically conclude the administrative process of assessment/determination through the Supreme Audit Agency (BPK). The importance of this administrative process is inseparable from the three functions of State Administrative Law, namely the normative, instrumental, and guarantee functions. According to Hadjon, the functions of State Administrative Law are to regulate and limit the exercise of governmental power through the principles of legality and legal safeguards, thereby providing protection for both public administration and citizens. [30]This means that every action of state administrators, in this case the state's action to receive compensation for state/regional losses, must have a legal basis whose implementation is regulated in state administrative instruments, to avoid future lawsuits.

BPK Regulation Number 3 of 2007 stipulates that the settlement of state losses to treasurers is entirely carried out by the BPK Leadership through the MTP. This creates an excessively wide [31]*span of control,* which may impede the timely and effective settlement of state losses, including their recovery to the state/regional treasury. A clear illustration of this broad *span of control* can be seen in cases involving treasurers' losses of any value at the district/city level, which must still proceed through assessment/determination by the BPK Treasury Claims Council.

The settlement of state losses as explained above will be easier to understand if we understand the cycle of settling state losses as follows:

Figure1. State Financial Management Cycle Flowchart and Settlement of State Losses



[28]Afzal Izzaz Zahari et al., "Public Sector Fraud: The Malaysian Perspective," *Journal of Financial Crime* 2022 (n.d.), https://doi.org/https://doi.org/10.1108/JFC-01-2021-0013.

[29]Mustawa Mustawa et al., "Refund of State Financial Losses in Realizing the Welfare State of Law," *Amsir Law Journal* 2, no. 105 (2022): 51–61, https://doi.org/10.36746/alj.v4i1.125.

[30]Philipus M. Hadjon, *Introduction to Indonesian Administrative Law*, (Yogyakarta: Gadjah Mada University Press, 1999), 56.

[31]The excessively wide *span of control can be seen in the limited authority to assess and/or determine state losses only to the BPK leadership (BPK members) for treasurers in all Ministries/Institutions in the central government and regional governments.*

By observing this cycle, it can be understood that BPK's assessment or determination of state losses forms the legal basis for determining corresponding receivables.. The urgency of administratively resolving state losses can be examined from two perspectives[32]: the philosophical foundation of state finances (budget) and **the** three principle objectives of law, namely justice, legal certainty and utility.

Rene Stourm advanced the view that "popular sovereignty constitutes the philosophical foundation of the state budget." This is the basis for the APBN and APBD, which are jointly prepared by the government and the House of Representatives (DPR/DPRD), as holders of popular sovereignty. [33]Therefore, conduct that causes losses to state finances may be understood as undermining the exercise of popular sovereignty and consequently requiring legal mechanisms for the recovery of such losses.

The urgency of administratively resolving state losses based on three main elements[34] of the objectives of legal science, namely justice, legal certainty and benefit is described as follows. The element of *Justice* in the assessment and/or determination of state/regional losses are reflected in two aspects, namely: *First,* the assessment of whether an Unlawful Acts has occurred, and *Second,* BPK, through the MTP, may either impose liability for the losses or release the person responsible for such liability. [35]The element of *Legal Certainty* can be achieved through the assessment and/or determination of state losses by establishing the amount of the state/regional financial loss, the party legally responsible for it, as well as the status of the resulting receivables in the Financial Reports of the Central/Regional Government and BUMN/D. The authority of the BPK in assessing and determining state losses is a major part of the cycle of assessment and determination of receivables. From an accounting perspective, a formal assessment and determination provide a reliable basis for recognizing the corresponding amount as a receivable. [36]The status of receivables is a legal certainty for the government to make collection efforts. Finally, the element of *benefit* can be achieved when the state's financial loss recovered through deposits into the state treasury or regional treasury in accordance with applicable provisions. It is hoped that the recovery process of state losses to the state/regional treasury may emerge the greatest possible benefits for public.

This article focuses on whether and how the Supreme Audit Agency's (BPK) authority to assess and/or determine state losses can satisfy the requirements of legal certainty. For example, the element of legal certainty often overlooks the effectiveness and efficiency aspects. In the Indonesian justice system, for example, there are opportunities to pursue legal remedies from the court of first instance, through appeals, to extraordinary legal remedies, namely cassation and judicial review. All of these efforts are aimed at creating an element of legal certainty**.**

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[32]Ferdinand Sembiring and Yasmirah Mandasari Saragih, "Legal Certainty In Financial Disputes Case Resolution Progressive Legal Perspective," *Journal of Progressive Law and Legal Studies* 2, no. 02 (2024): 152–62, https://doi.org/https://doi.org/10.59653/jplls.v2i02.845.

[33] Arifin P. Soeria Atmadja, *Public Finance in the Perspective of Law, Theory, Criticism and Practice*, (Jakarta: PT RajaGrafindo Persada, 2009), 194-195.

[34]Bonifacius Raya Napitupulu, "Legal Certainty The Obligation To Make Administrative Efforts Before Filing A Lawsuit In The Administrative Court," *Devotion: Journal of Research and Community Service* 5, no. 9 (2024): 1089–106.

[35]Based on BPK Regulation Number 3 of 2007, the BPK can issue a Decision Letter on Charges and a Decision Letter on Exemption. A Decision Letter on Charges is a decision letter issued by the Audit Board that has final legal force regarding the imposition of compensation for state losses on the treasurer. Meanwhile, a Decision Letter on Exemption is a decision letter issued by the Audit Board regarding the release of the treasurer from the obligation to compensate state losses because there is no element of unlawful acts, either intentional or negligent.

[36]Government Accounting Standards Committee, Technical Bulletin Number 16 on Accrual-Based Accounting for Receivables states that Recognition that results in state/regional losses caused by the Treasurer is recognized in the balance sheet as Treasury Claims Receivables at the time of issuance of the Absolute Liability Statement (SKTJM) or the Charge Decision Letter from the BPK.

On the other hand, where BPK assesses and/or determines state losses against the treasurer through a quasi-judicial mechanism before the Treasury Claims Council, the procedure must adequately satisfy fundamental principles of justice. These principles include the "Principle of Hearing Both Parties" (*audi et alteram partem*). It means that the parties to the case must be treated and given an equal and fair opportunity to defend and protect their interests in which requires a balanced examination processes. Therefore, in the trial, both parties to the case must be treated equally and impartially.

The primary question of this study is addressed through the reconstruction of BPK's authority in assessing and/or determining state losses involving Treasurer as regulated under Article 10 of the BPK Law. To reconstruct the BPK's authority, a legal political research was conducted on the regulation of the Settlement of State Losses against the Treasurer in Article 10 of Law Number 15 of 2016 concerning the Supreme Audit Agency in a *double movement*, namely (1) examining the ontological basis, philosophical basis and *ratio legis* of the legal politics of the formation of regulations, and (2) critiquing legal products that have been enacted based on these legal politics. The goal is to provide positive legal regulations in the future which are formulated better and satisfy the element of legal certainty. Legal research with a legal political approach to reconstruct the implementation of the authority of the Supreme Audit Agency in assessing and/or determining state losses against the Treasurer through the BPK Decree is a new research which expected to answer the question of whether the authority and procedures that have been regulated so far have satisfied the element of legal certainty.

This legal research is written normatively with a statutory approach. The statutory approach *is* essentially carried out by examining related rules and regulations and seeking *the ratio legis.* and the ontological basis of the birth of the law. By studying *the ratio legis* and the ontological basis of a law, it will be possible to uncover the philosophical content behind the law. [37] To broaden the analysis of quasi-judicial authority exercised by the Supreme Audit Institution, this study also employs a comparative approach by examining France and Turkiye, where Supreme Audit Institution (SAI) possess jurisdictional characteristics within *civil-law system*.

2. ANALYSIS AND DISCUSSION

This section is the most important section of your article. Contains the results of the object of study and should be clear and concise. Discussion is presented descriptively, analytically, and critically. The description shall be in accordance with legal issues or arrangement of analyzed legal issues.

2.1. The nature of state losses in the realm of state administrative law

According to Article 1 number 22 of Law Number 1 of 2004 concerning State Treasury, State/Regional Losses are a shortage of money, securities and goods, the amount of which is real and certain as a result of unlawful acts, whether intentional or negligent.[38]

Based on the definition of state losses above, the elements of state losses are:[39]

a. Lack of money, goods, valuables;

[37]Irwansyah*, Legal Research: Choice of Methods and Practice of Article Writing,* (Yogyakarta: Mirra Buana Media, 2022), 137.

[38]Indonesia, Law on State Treasury, Law No. 1 of 2004, LN No. 5 of 2004, TLN No. 4355 , Article 1 number 22. This provision is the same as the definition of State/Regional Losses as regulated in Article 1 number 15 of Law Number 15 of 2006 concerning the Audit Board.

[39]Nizam Burhanuddin, *State Financial Law, Op. Cit*, 172.

b. The actual and certain amount of loss;
c. Unlawful acts, whether intentional or negligent;
d. There is a person responsible/perpetrator of the loss;
e. The causal relationship between the unlawful act and the loss that occurs.

According to Dian Puji Simatupang, state losses have the following nature:[40]

a. Losses are only deficiencies in money, goods and securities;
b. Certainly, the amount of money, goods and securities that have been reduced has been confirmed through an examination of the financial report;
c. Real, meaning that the money, goods and securities that have been reduced have actually become the rights and/or obligations of the state;
d. The reduction is caused by unlawful acts (criminal/civil) or negligence (state administration).

State losses, as defined in statutory regulations in relation to state administrative functions, must be examined from two elements, called authority and the purpose/motivation underlying the relevant act. [41]According to E. Utrecht, state losses may involve unlawful conduct where the underlying acts contain particular legal defects, namely:[42]

a. Coercion (*dwang*) or bribery (*omkoperij*), called state losses that occur due to coercion from any party, either directly or indirectly or political pressure or which is followed by the giving of promises to give something that influences actions that result in a reduction in money, securities and goods;
b. Fraudulent deception (*kuntsgrepen*), namely state losses that occur due to the use of money, securities and goods that are engineered or appear to be in accordance with existing provisions, or facts or events that actually contradict the need to use the money, securities and goods.

In other words, a state loss that satisfies the elements stipulated in Article 1 number 22 of Law No. 1 of 2004 concerning State Treasury is initially addressed within the framework of administrative law. Unless in subsequent proof by law enforcement officials, there are legal deficiencies in the form of Coercion (*dwang*) or bribery (*omkoperij*) or Deception of a trick nature (*kuntsgrepen*) in the form of engineering the use of state funds that does not comply with the provisions of laws and regulations.

2.2. The legal ratio for granting the authority to assess and/or determine state losses to the treasurer to the BPK

2.2.1. Historical ratio of state loss settlement

From the perspective of State Administrative Law, the process of recovering state losses outside the courts in Indonesia can be traced historically to earlier treasury-law arrangements. Since the enactment of *the Indonesian Comptabilities Law* (ICW), two forms of state loss settlement have been recognized: Compensation Claims (TGR) and Treasury Claims (TP). [43]These forms of state loss settlement constitute administrative

[40]Dian Puji N. Simatupang, *The Paradox of Rationality in Expanding the Scope of State Finance and Its Implications for Government Financial Performance*, (Jakarta: FHUI Publishing Agency, 2011), 328.

[41]Dian Puji N. Simatupang, 331.

[42]E. Utrecht, *Introduction to State Administrative Law*, adapted and revised by Moh. Saleh Djindang. (Jakarta: Ichtiar Baru, 1990), 82-86.

[43]Treasury claims are regulated by BPK Regulation Number 3 of 2007 concerning Procedures for Compensation of State Losses by Treasurers. Meanwhile, Compensation Claims are the process of prosecuting (assessing and/or determining) and recovering state losses caused by unlawful acts by non-treasurer civil servants, as determined by the head of the agency. The implementing regulation of the TGR is Government Regulation Number 38 of 2016 concerning Procedures for Compensation Claims for State/Regional Losses against Non-Treasurer Civil Servants or Other Officials.

legal mechanisms established under statutory authority to recover state losses outside ordinary judicial proceedings.

The legal basis for BPK's administrative settlement of state losses can be traced historically to the ICW, which operated during the Dutch Colonial era and remain relevant until the enactment of Law No. 17 of 2003. The claim for compensation in the ICW is regulated in Article 58, which gives the BPK the authority to determine compensation for the treasurer. The BPK's decision concerning a treasurer possessed executorial force comparable to a judicial, without requiring a separate judgment from a district court.[44]

Article 58 of the ICW states that the Decision of the Audit Board, in which an amount of money is determined, which in matters concerning the management of the treasurer, must be reimbursed to the State, or in which a fine is imposed on a treasurer, is issued in the name of justice. A copy of the decision headed "In the name of Justice", and signed by the Chairman of the Audit Board had the same legal force and was enforceable in the same manner as a final judicial decision in a civil case.[45]

The regulation of state finances and state treasury as regulated in the ICW is no longer valid after the enactment of Law No. 17 of 2003 which was followed by the issuance of a package of State Finance Laws, namely Law No. 1 of 2004 concerning State Treasury, Law No. 15 of 2004 concerning Audit of State Financial Management and Accountability, and Law No. 15 of 2006 concerning the Audit Board.

Nevertheless, the distinction between state losses involving treasurer and those involving non-treasurer officials has been maintained historically since the ICW regime. In the treasury regime, the regulation that gives authority to the BPK in settling state losses, especially with the treasurer responsible, is reaffirmed in Article 10 paragraph (1) of the BPK Law, namely:

> *The BPK assesses and/or determines the amount of state losses resulting from unlawful acts, whether intentional or negligent, committed by treasurers, BUMN/BUMD managers, and other institutions or bodies that manage state finances.*

Historical analysis is essential for identifying *the legal reason* underlying the enactment of a statutory provision. According to Soedikno Mertokusumo, laws are always a response to social interests or needs to regulate human activities, which can be explained historically. Each regulation can be seen as a step in societal development, the meaning of which can be explained by examining previous steps, which include all institutions involved in implementing the law.[46]

2.2.2. The legal ratio for the implementation of Article 10 of the BPK Law which provides the authority to assess and/or determine state losses to the Treasurer through a BPK Decree

In addition to historical interpretation, *the ratio legis* underlying Article 10 paragraph (1) of the BPK Law can be identified through systematic interpretation, called by constructing the provisions in relation to other statutory provisions and the broader legal system. [47]The relationship between all regulations is not solely determined by the

[44]Bohari, *State Budget Law,* (Jakarta: Rajawali Pers, 1995), 109.

[45]Bohari, *State Budget Law.*, 182.

[46]Soedikno Mertokusumo, *The Discovery of Law*, (Yogyakarta: Atma Jaya University Yogyakarta, 5th edition, 2014). 78.

[47]Soedikno Mertokusumo, 76.

place of the regulations in relation to each other, but by the common goals or principles that underlie those regulations.[48]

State Financial Management, as regulated in Law Number 17 of 2003 and Law Number 1 of 2004, regulates the span of control *in* the planning, management, and supervision of state finances. One of the principles mechanisms for ensuring accountable and professional state financial management is the separation of government responsibilities between the technical management function of the *Chief Operational Officer* (COO) and the financial management function of *Chief Financial Officer* (CFO). This division is part of the *checks and balances* to ensure professionalism in the implementation of government duties.[49]

Meanwhile, unlawful acts resulting in state losses by non-treasurer civil servants are not subject to administrative assessment and/or determination by the Supreme Audit Agency (BPK). This is because, in the capacity of Chief Operating Officer (COO), the Minister/Head of the Agency acts as the principle authority responsible for supervising technical activities and the conduct of non-treasurer civil servant. Therefore, the authority to assess and determine these lays with the agency head.

According to Jimly Asshiddiqie, the BPK's authority to pursue compensation involving treasurers, BUMN/D managers, and other institutions or bodies managing state finances, constitutes a distinctive institutional function, particularly where state losses arise from intentional or negligent unlawful acts. [50] BPK performs a distinctive functions compared with other high institutions, in addition to its operational role in auditing state financial management and accountability, it also performs *advisory functions* by providing considerations on state financial management and justice (*quasi-judicial*) in specified treasury matters.[51]

2.2.3. Ratio legis settlement of state losses to the treasurer within the framework of the legal principles of good governance

According to Indroharto, AUPB is part of the general legal principles that specifically apply and are important for government legal actions. [52]According to Philipus M. Hadjon, the importance of AUPB is due to several things: First, AUPB is part of the enforcement of positive law; Second, AUPB is a norm for state administrative actions, in addition to norms in written and unwritten law; and third, AUPB performs as a reason to file a lawsuit, and ultimately AUPB as a "test tool" by an administrative judge, to assess whether or not a state administrative decision is valid.

The scope of AUPB in Indonesia is regulated in at least seven laws, namely the 2004 PTUN Law, the 1999 Anti-KKN Law, the 2014 State Administration Law, the 2009 Public Service Law, the 2008 Ombudsman Law, the 2014 Regional Government Law, and the 2014 ASN Law. Summarized from these seven regulations, there are thirteen important principles that are the scope of AUPB, called: 1. Principle of Legal Certainty; 2. Principle of Public Interest; 3. Principle of Openness; 4. Principle of Benefit; 5. Principle of Impartiality / Non-Discrimination; 6. Principle of Accuracy; 7. Principle

[48]Soedikno Mertokusumo.

[49]W. Riawan Tjandra, *State Financial Law,* (Jakarta: Grasindo, 2014), 67.

[50]Jimly Asshiddiqie, *Development and Consolidation of State Institutions Post-Reformation,* (Jakarta: Publisher Constitution Press, 2006), 171.

[51]Jimly Asshiddiqie, as quoted in Yudia Perdana Sikumbang, and Geofani Milthree Saragih, "The Existence of Assertion Principles in the Financial Supervision Authority by the Supreme Audit Agency in Indonesia", *Protection Journal of Land and Environmental Law* , Catra Research Institute, Vol 1, Number 1, (2022): 56-60, https://doi.org/10.38142/pjlel.v1i1.402 .

[52]Indroharto, *General Principles of Good Governance*, published in Paulus Effendi Lotulung (Ed.), *Collection of Papers on General Principles of Good Governance*, (Bandung: Citra Aditya Bakti, First Edition, 1994), 145-146.

of Not Abusing Authority; 8. Principle of Good Service; 9. Principle of Orderly State Administration; 10. Principle of Accountability; 11. Principle of Proportionality; 12. Principle of Professionalism; and 13. Principle of Justice.

Although BPK's assessment and/or determination has adjudicative characteristics within a *quasi-judicial framework*, it remains an administrative decision subject to legal challenged by affected parties. Therefore, the AUPB approach to fulfilling the provisions for resolving state losses is imperative.

Following the enactment of Law Number 30 of 2014 concerning State Administration, state administrative disputes can be resolved through administrative means. The provisions and definitions of administrative dispute resolution under Law Number 30 of 2014 are as follows:

1. Administrative Efforts: Administrative Efforts are a dispute resolution process carried out within the Government Administration environment as a result of the issuance of a Decision and/or Action that is detrimental.[53]
2. Government Administration Decisions: Government Administration Decisions, also known as State Administrative Decisions or State Administrative Decisions, hereinafter referred to as Decisions, are written decisions issued by Government Agencies and/or Officials in the administration of government.[54]
3. Actions in Government Administration: Actions in Government Administration, hereinafter referred to as actions, are actions by Government Officials or other state administrators to carry out and/or not carry out concrete actions in the context of carrying out government."[55]

The elements of dispute resolution in MTP and their comparison with the resolution of State Administration (TUN) and Government Administration (AP) disputes are as follows:

Table1. Comparison Table of MTP with PTUN and AP

Regulatory Aspects	Treasury Claims Assembly[1]	State Administrative Court[2]	Government Administration[3]
Dispute Resolution Institution	Treasury Claims Assembly	Administrative Court	Administrative Efforts (attached to a particular position in a government institution)
Authority	Assess/and or determine state losses	Resolving State Administrative Disputes	Resolving administrative disputes (objections and appeals)
Applicant	Agency leadership based on information from TPKN.	Person or Civil Legal Entity	Citizens

[53]Indonesia, Law on Government Administration, Law No. 30 of 2014, LN No. 292 of 2014, TLN No. 5601. Article 1 number 16.

[54]Indonesia, Law on Government Administration, Law No. 30 of 2014,., Ps. 1 number 7.

[55]Indonesia, Law on Government Administration, Law No. 30 of 2014,., Ps. 1 number 8.

Object of dispute	Unlawful acts, whether intentional or negligent	TUN decisions, including in the field of Personnel.	Government Decisions and/or Administrative Actions.
Implementation of the Trial	Closed to the public	Open to the public	Not holding a trial
Subject/Petitioner's presence at the hearing	The applicant and/or treasurer did not attend the hearing	Present at the trial	Not holding a trial
Output	Assessment and/or determination of state losses to charge or release state losses to treasurers and managers of BUMN.	lawsuit rejected, granted, not accepted, dropped.	Cancellation or invalidity of the Decision
Form of Decision	BPK Decision	Administrative Court Decision	Government Officials' Decisions
Appeal Efforts	Through the Objections Council whose decision is *final and binding*	Through the High Court of Administrative Court, up to the cassation level at the Supreme Court	Through the PTUN

Source: Author's analysis of BPK Regulation No. 3/2007; BPK Decision No. 5/K/I-XIII.2/7/2011; Law No. 5/1986 as amended; and Law No. 30/2014..

Table 1 shows that the Treasury Claims Council perform functions resembling administrative adjudication because it examines alleged unlawful conduct, determines individual responsibility, and issues decisions imposing or releasing liability. However, its procedural structure differs from proceedings before the State Administrative Court, particularly regarding party participation, openness of hearings, evidentiary examination, and review mechanisms

Because the decision of the Treasury Claims Council takes the form of a decision (*beschikking*), it may legally become the object of an administrative dispute before the PTUN under Law No. 5 of 1986, as amended by Law No. 51 of 2009, and may also be subject to administrative efforts under Law No. 30 of 2014 concerning Government Administration.From the perspective of *ratio legis* and AUPB, BPK's authority to assess and/or determine state losses involving treasurers must be exercised in a manner that satisfies the fundamental principles of legal certainty, justice and utility.

2.2.4. Ratio ontological and philosophical authority of the BPK in assessing and/or determining state losses against the treasurer

Ontology derives from the Greek concept of being or existence and concerns the nature of what exists which is one of the most ancient fields of philosophical inquiry.

According to Amlah Bahtiar, ontology is the theory/science of being, of the essence of existence. Ontology is not based on the real world but is based solely on logic. Ontology examines existence in universal terms and seeks to identify the essential nature underlying different form of reality.[56]

The ontological study of law rests on legal principles in which legal science cannot be separated from legal principles. However, in this correlation, the question arises as to the position and situation of legal principles, which are the focus of legal science. As described in the context above, the Sociology of Law and Legal Anthropology study legal behavior as a legal reality (*Taatschachen Wissenchaft*). [57]The characteristics of legal rules may be identified through their legitimacy and legal consequences attached to non-compliance. Essentially, legitimacy means that something that will become a rule is authorized by a certain authority, while sanctions mean that something that will become a legal rule, if violated, will result in sanctions.[58]

From the discussion above, two basic assumptions may be drawn: first, legal rules may be expressed in written and second, the formation of living law cannot be separated from the legitimacy, authority, underlying legal value.[59]

From an ontological perspective, the regulation of state compensation involving treasurers derives its legitimacy from a clearly established statutory and regulatory framework. This instrument is currently regulated in the State Finance Law package, namely Law Number 1 of 2004 concerning State Treasury, Law Number 15 of 2004 concerning Audit of State Financial Management Accountability, and Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK), up to its implementing provisions in BPK Regulation Number 3 of 2007 concerning Procedures for Compensation for State Losses to Treasurers.

BPK Regulation Number 3 of 2007 as an implementing legal instrument also regulates the existence of sanctions, namely as follows:[60]

a. Article 38 paragraph (1) states that the Treasurer who has been appointed to compensate state losses may be subject to administrative sanctions and/or criminal sanctions in accordance with the provisions of applicable laws and regulations.
b. Article 38 paragraph (2) states that the treasurer's direct superior or head of office/ work unit who does not carry out the obligations as referred to in Article 7 paragraph (1) may be subject to sanctions in accordance with applicable laws and regulations.[61]

The ontological basis BPK's authority to assess and/or determine state losses involving treasurer may also be examined from the perspective of financial management, accountability, and supervision. In the concept of state financial management, it is generally recognized that there is a distance between management, in this case the financial manager, and the "principal," in this case the state. This relationship gives rise to " *asymmetric information*," in which the treasurer may possess more complete information related to cash management than the the agency head representing the state

[56]Nur Rois, "Challenging Legal Science: A Study of Legal Science from the Perspective of the Philosophy of Science." *Reusam Journal of Legal Science* Vol. X No.1, (2022): 66-68. https://doi.org/10.29103/reusam.v10i1.8913 .

[57]Lilik Mulyadi, *Descriptive Analysis Study of the Nature of Legal Science Examined from the Aspects of Ontology, Epistemology and Axiology of Science* , downloaded at https://badilum.mahkamahagung.go.id/upload_file/img/article/doc/kajian_deskriptif_analitis_tentang_hakikat_ilmu_hukum.pdf on February 2, 2025

[58]Lilik Mulyadi.

[59]Lilik Mulyadi , pp. 5-6.

[60]Audit Board of Indonesia, Regulations on Procedures for Compensation of State Losses to Treasurers, BPK Regulation No. 3 of 2007, Chapter XII, Article 38.

[61]Article 7 paragraph (1) of BPK Regulation Number 3 of 2007 states that the treasurer's direct superior or head of the work unit is obliged to report any state losses to the head of the agency and notify the Audit Board no later than 7 (seven) working days after the state losses are known.

as principle. The concept and term *asymmetric information* developed in economics in the 1970s during the modern economic revolution. *Asymmetric information* arises where one party possesses more or better information than another within a principle-agent relationship, thereby placing the less-informed party at a potential informational disadvantage. This condition occurs, among others: management that has better information with investors and shareholders in the company.[62]

In general, there are two types of *asymmetric information*: 1) *Adverse Selection*, which is a type of information asymmetry in which one or more parties conducting or will conduct a business transaction, or a potential business transaction have more information than other parties. *Adverse selection* occurs because some people such as company managers and other insiders know more about the current condition and future prospects of a company than outside investors; and 2) *Moral Hazard*, which is a type of information asymmetry in which one party conducting or will conduct a business transaction or a potential business transaction can observe their actions in completing their transactions while other parties do not.[63]

Within the framework of asymmetric information in state financial management, BPK may be regarded as an independent institutional actor of assessing and determining state/regional losses arising from the improper management of public funds by the treasurers.

2.2.5. Normative Force of Jurisdictional Audit Decisions in France and Türkiye.

A meaningful comparison of supreme audit institutions should not be limited to their organizational structures or to the general observation that they exercise jurisdictional or quasi-judicial functions. It must also examine the normative force of their decisions: the legal basis of jurisdiction, the procedural status of the affected person, the binding character of the decision, the availability of review, and the mechanism through which the decision is enforced. France and Türkiye provide two distinct models relevant to the reconstruction of BPK's quasi-judicial authority.

In France, the financial-liability regime was substantially reformed with effect from 1 January 2023. Public managers are now subject to a unified jurisdictional regime administered at first instance by the Litigation Chamber of the *Cour des comptes*. The *Code des juridictions financières* authorises the Court to determine responsibility for serious breaches of public-finance rules that cause significant financial harm and to impose proportionate financial sanctions.[64] Proceedings possess expressly judicial characteristics: hearings are generally public, the person concerned may appear or be represented, evidence submitted by one party must be communicated to the other, and the person subject to proceedings has the right to speak last. Judgments may be appealed to the *Cour d'appel financière* and subsequently challenged in cassation before

[62]The concept of *Asymmetric Information* is also known in the realm of environmental law enforcement, which occurs, among other things, in environmental pollution/contamination issues. In this context, companies that pollute the environment have more information about the level of pollution from their original production activities than the government as supervisor and regulator, and the affected community. To overcome this imperfect information, the government requires companies or parties with more information to disclose this information to regulators or the public to create a balance of information. See Kevin Wainwright, *Environmental Regulation, Asymmetric Information, and Moral Hazard*, Paper at the Canadian Economic Association annual conference seminar on the environment, June 1996. Downloaded at https://www.sfu.ca/ ~ wainwrig/Econ400/enviro.pdf on February 20, 2025 .

[63]See R. Glenn Hubbard, *Asymmetric Information, Corporate Finance and Investment* (Chicago: University of Chicago Press, 1990), 1-12.

[64]France, *Code des juridictions financières*, arts. L. 131-9–L. 131-20; Ordinance No. 2022-408 of March 23, 2022, concerning the financial-liability regime of public managers.

the *Conseil d'État*.[65] The normative force of the French decision therefore derives from its status as a judgment of a financial jurisdiction, supported by adversarial procedural safeguards and external, multi-level judicial review. However, the current French regime primarily imposes financial sanctions and is not identical to Indonesia's mechanism for directly determining and recovering a treasury loss.

In Türkiye, the Turkish Court of Accounts (*Sayıştay*) combines external audit with a more direct form of financial adjudication. Under Law No. 6085, its Chambers act as courts of accounts and determine whether public loss has resulted from the accounts and transactions of responsible officials. Before a judicial report is prepared, the defense of the responsible person must be obtained; the resulting writ must state the legal grounds, summarize the defense, indicate whether a hearing was conducted, and specify the amount of indemnification where liability is established.[66] The responsible person may appeal a Chamber's writ to the Board of Appeals on grounds including violation of law, excess of authority, or non-compliance with account-trial procedure. The Board of Appeals' decision is final within the Turkish Court of Accounts system, while retrial and correction procedures remain available under specified conditions.[67] Once final, the writ must be executed within ninety days, the relevant head of the public administration is responsible for implementation, and the amount of indemnification bears interest and is collected under the applicable enforcement legislation.[68] These provisions give Turkish writs direct binding effects and enforceable legall force.

Table 2. Normative Force of Jurisdictional Audit Decisions in France and Türkiye

Comparative aspect	France	Türkiye
Legal foundation	*Code des juridictions financières*, as reformed by Ordinance No. 2022-408 and implementing legislation	Constitution of Türkiye, Article 160, and Turkish Court of Accounts Law No. 6085
Adjudicating institution	Litigation Chamber of the *Cour des comptes*	Chambers of the Turkish Court of Accounts acting as courts of accounts
Subject of responsibility	Public managers responsible for specified serious breaches of public-finance rules	Officials responsible for public loss arising from public accounts and transactions
Participation and defence	Adversarial proceedings, public hearing, representation, access to opposing submissions, and the right to speak last	Defence statement obtained before the judicial report; responsible parties may request or attend a hearing and submit arguments and evidence

[65] France, *Code des juridictions financières*, arts. L. 142-1-6–L. 142-1-7 and R. 142-4-1–R. 142-4-7; Decree No. 2022-1604 of December 22, 2022, concerning the Litigation Chamber of the Court of Accounts and the Financial Appeals Court.

[66] Türkiye, Turkish Court of Accounts Law No. ٦٠٨٥, arts. ٤٨ and ٥١.

[67] Türkiye, Turkish Court of Accounts Law No. ٦٠٨٥, arts. ٥٧–٥٥.

[68] Türkiye, Turkish Court of Accounts Law No. 6085, art. 53.

Nature of decision	Judicial judgment that may impose proportionate financial sanctions	Reasoned writ determining compliance, individual responsibility, and indemnification of public loss
Review mechanism	Appeal to the Financial Appeals Court and cassation before the *Conseil d'État*	Appeal to the Board of Appeals; retrial and correction procedures are also available
Binding force	Binding judgment of a financial jurisdiction, subject to the applicable appellate process	Board of Appeals decisions are final within the Turkish Court of Accounts system
Enforcement	Financial sanctions are imposed under the Financial Jurisdictions Code; the system is not identical to direct loss-recovery adjudication	Final writs must be implemented within ninety days; indemnification bears interest and is collected through statutory enforcement mechanisms

Source: Author's analysis of French financial-jurisdiction legislation and Turkish Court of Accounts Law No. 6085, arts. 48, 51, 53, and 55–57.

Table 2 demonstrates that the normative force of jurisdictional audit decisions does not arise merely because an audit institution labels its function judicial or quasi-judicial. In both countries, that force is supported by statutory jurisdiction, reasoned decision-making, the participation of the person whose responsibility is examined, formal remedies, and a defined enforcement mechanism. The Turkish model is functionally closer to Indonesian Treasury Claims because the writ directly determines indemnification and carries a statutory obligation of execution. The French model is less directly comparable in terms of recovery, particularly after the 2023 reform, but it provides a stronger illustration of adversarial procedure and institutionally separated appellate review. The appropriate lesson for Indonesia is therefore not to transplant either institutional model wholesale, but to ensure that BPK decisions acquire legal certainty through an integrated structure of due process, reasoned adjudication, reviewability, and enforceability.

2.3. Reconstruction of the settlement of state losses to the treasurer through the BPK decision from an administrative law perspective

2.3.1. The flow and construction of the settlement of state losses based on BPK Regulation No. 3 of 2007

Based on Law Number 1 of 2004 concerning State Treasury, Law Number 15 of 2006 concerning BPK, and their implementing regulations, namely BPK Regulation Number 3 of 2007, the settlement mechanism for State Losses involving Treasurer may be outlined as follows:

First, state/regional losses resulting from unlawful acts by the Treasurer can be sourced from the results of audits by the BPK, the Government Internal Supervisory Apparatus, observes from direct superiors or *ex officio reports*. [69]In accordance with the provisions of Article 60 paragraph (1) and Article 61 paragraph (1) of Law Number 1 of 2004, direct office heads who are aware of state losses report the losses to the head

[69]Audit Board of Indonesia, Regulation on Procedures for Settlement of State Losses to Treasurers, BPK Regulation No. 3 of 2007, Article 3, LN No. 147 of 2007.

of the agency, called the minister/head of the agency/governor/regent/mayor. The Head of the Agency then assigns the State Loss Resolution Team or TPKN to verify the state losses, and then is submitted to the BPK through the Head of the Agency.

Second, based on the report from the head of the agency, the BPK through the Treasury Claims Council (MTP), conducts a hearing to assess and/or determine whether the matter constitutes a treasury claim case, whether an unlawful act has occurred, and the amount of state loss for which the treasurer may be held liable. The results of the MTP hearing are notified to the Head of the Agency to be resolved through peaceful efforts marked by the signing of a Statement of Absolute Responsibility or SKTJM by the treasurer. The SKTJM contains the treasurer acknowledgment of error or negligence and commitment to repay the loss within 40 days, supported by collateral in the form of the treasurer's assets. In accordance with the provisions of Article 19 of BPK Regulation Number 3 of 2007, in the event that this treasury claim case is revealed by the Audit Team during the audit task, the value of the loss is real and certain, the treasurer admits his mistake and is willing to pay in cash within 40 days, then the process of signing the SKTJM can be carried out by the treasurer in the presence of the auditor.

Third, the SKTJM enters the implementation stage. If the SKTJM is not obtained or cannot guarantee the recovery of losses, then the Head of the Agency issues a Temporary Charge Decree or SKPS, which has the power of collateral seizure, and submits the SKPS to the BPK. If the treasurer signs the SKTJM and repays the losses within 40 days period, BPK will declare the state loss fully recovered. Meanwhile, if the treasurer does not pay the state losses within 40 days, then the BPK will issue a Charge Decree or SKP which has the power of executorial seizure of the collateralized assets.

Fourth, if the Head of the Agency does not submit the Verification Results Report or the treasurer does not sign the SKTJM and the Head of the Agency issues an SKPS, BPK will issue a Time Limit Determination Decree or SKPBW. [70]With the issuance of the SKPBW, the treasurer is given the opportunity to file an objection or defend himself for 14 days from the receipt of the SKPBW. The MTP will again conduct an inspection through an Objection Hearing if the treasurer submits an objection. If the treasurer's objection is rejected, the BPK will issue an SKP which has the power of executorial seizure against the assets that have been placed under collateral seizure. Unlike the issuance of an SKP based on an SKTJM that is not paid within 40 days, the executorial seizure power of the issuance of an SKP based on SKPS-SKPBW is not only against the collateralized assets, but also against the assets subject to collateral seizure. Conversely, if the MTP Hearing decides to accept the treasurer's objection, the BPK will issue a release decision letter.

Fifth, at the implementation or enforcement stage, BPK's charge Decision requires full payment of the determined loss within seven days. Failure to do so will result in the seizure of the treasurer's assets for auction. During the seizure and auction process, the agency head may deduct 50 % of the treasurer's *take-home pay*.

2.3.2. Assessment of the elements of state losses

According to Article 1 number 22 of Law Number 1 of 2004 concerning State Treasury, State/Regional Losses are a shortage of money, securities and goods, the

[70]SK-PBW is a decision letter issued by the Audit Board regarding the provision of an opportunity for the treasurer to submit an objection or self-defense regarding demands for compensation for state losses.

amount of which is real and certain as a result of unlawful acts, whether intentional or negligent.[71]

Based on the definition of state losses above, the elements of state losses are: [72]First, the lack of money, goods, valuable documents; Second, the amount of real and definite losses; Third, the existence of unlawful acts (PMH) whether intentional or negligent; Fourth, the existence of a person responsible/perpetrator of the loss; and Fifth, the existence of a causal relationship between the unlawful act and the losses that occur.

To determine whether or not there is a state loss, the BPK is based on BPK Decree Number 5/K/I-XIII.2/8/2010 concerning Technical Instructions for Coding Audit Findings, in which there are nineteen types of findings included in the sub-group of findings of state/regional losses or state/regional losses that occur in state/regional-owned companies, namely:[73]

1) Purchase or procurement of fictitious goods/services;
2) The goods/services procurement partner did not complete the work;
3) Shortage of work volume and/or goods;
4) Excess payment in addition to shortfall in volume of work and/or goods;
5) Price increase (*Mark up*);
6) Use of money/goods for personal gain;
7) Payment of honorarium and/or travel expenses that are double and/or exceed the established standards;
8) The specifications of the goods/services received do not match the contract;
9) Shopping does not comply with or exceeds the provisions;
10) Repayment of bad loans/receivables or revolving funds;
11) Excess determination and payment of tax restitution or determination of compensation for losses;
12) The sale/exchange/disposal of state/regional assets does not comply with regulations and is detrimental to the state/region;
13) The imposition of state compensation has not/has not been implemented in accordance with the provisions;
14) The entity has not/did not carry out treasury demands (TP) in accordance with the provisions;
15) The cancellation of collection rights does not comply with the provisions;
16) Violation of the provisions for granting sales discounts;
17) Determination of the HPP is too low so that the selling price is determined lower than it should be;
18) Performance guarantees for the implementation of work, use of goods and provision of facilities cannot be cashed;
19) Depositing state/regional revenue with fictitious evidence

For the purposes of administrative assessment and determination, state losses may be understood as a shortage of money, securities and goods, resulting from an intentional or negligent unlawful acts.[74]

[71]Indonesia, *Law on State Treasury*, Law No. 1 of 2004, LN No. 5 of 2004, TLN No. 4355, Article 1 number 22. This provision is the same as the definition of State/Regional Losses as regulated in Article 1 number 15 of Law Number 15 of 2006 concerning the Audit Board.

[72]Nizam Burhanuddin, *State Financial Law,* 172.

[73]Audit Board of Indonesia, BPK Decree Number 5/K/I-XIII.2/8/2010 concerning Technical Instructions for Coding Audit Findings dated August 27, 2010.

[74]Indonesia, *Law on State Treasury*, Law No. 1 of 2004, LN of 2004 No. 5, TLN No. 4355, Article 1 number 22. This provision is the same as the definition of State/Regional Losses as regulated in Article 1 number 15 of Law Number 15 of 2006 concerning the Audit Board.

In assessing and/or determining state losses, the BPK Treasury Claims Council not onlydeterminestheamountofstatelosses,butalsoassessestheotherconstituentelements, culminating in either a charge decision where the treasurer is found responsible for an unlawful acts or an Exemption decision where such responsibility is not established.

In relation to PMH, the statutory provisions in the treasury sector stipulate that the Treasurer is personally responsible for the money he manages. This regulation is contained in Article 21 paragraph (5) of Law Number 1 of 2004 concerning the Treasury, which states that "The Expenditure Treasurer is personally responsible for the payments he makes."

The obligation of the head of an agency to compensate for state losses is stated in the General Explanation of number 6 of Law Number 1 of 2004 concerning State Treasury which states that every head of a state ministry/institution/head of a regional work unit is obliged to immediately make a claim for compensation after learning that a loss has occurred in the relevant state ministry/institution/regional work unit. The charge of state/regional compensation on treasurers is determined by the Supreme Audit Agency, while the imposition of state/regional compensation on non-treasurer civil servants is determined by the minister/head of institution/governor/regent/mayor. Treasurers, non-treasurer civil servants, and other officials who have been appointed to compensate for state/regional losses may be subject to administrative sanctions and/or criminal sanctions if proven to have committed administrative and/or criminal violations.

From the elements described above, the settlement of state losses involving treasurers is based primarily on the personal responsibility of the treasurer rather than a collective institutional liability. The involvement of agency leaders is still regulated in normative regulations for resolving state losses to the Supreme Audit Agency (BPK). However, the existing framework does not clearly regulate sanctions against ministries/institutions that fail to follow up BPK determinations through recovery/deposit to the state/regional treasury.

In assessing PMH, MTP bases its assessment on the TPKN verification report. Article 6 paragraph (2) letter c of BPK Regulation Number 3 of 2007 states that TPKN carries out the function of collecting and verifying supporting evidence that the treasurer has committed, either intentionally or negligently, resulting in state losses.

Based on Article 11 paragraph (2) of BPK Regulation Number 3 of 2007, supporting evidenceofunlawfulactsintheTPKNVerificationReportisoneofthedocumentsattached by the head of the agency to the BPK to request an assessment and/or determination of state losses. [75]The Audit Board conducts an examination of the state loss report based on the research report as referred to in Article 11 paragraph (2) to conclude that state losses have occurred, including the value of the state loss, unlawful acts whether intentional or negligent, and the person responsible. [76]The PMH assessment of the treasurer by the BPK can also be based on a court decision, as regulated in Article 42 paragraph (1) of BPK Regulation Number 3 of 2007, namely:

A judge's decision that imposes a sentence on a treasurer that has permanent legal force can be used as evidence of an unlawful act, whether intentional or negligent, in the process of claiming compensation for state losses.

[75]Audit Board of Indonesia, Regulations on Procedures for Compensation of State Losses to Treasurers, BPK Regulation No. 3 of 2007, Article 11.

[76]Audit Board of Indonesia, Article 12 paragraph (1).

From the judicial side, the definition of unlawful acts in judicial practice in Indonesia can be found in the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 3191/K/Pdt/1984 dated February 8, 1986. This jurisprudence outlines the norm that an act is qualified as an unlawful act if it has fulfilled 4 (four) criteria, namely: Unlawful Acts must be interpreted as acts or omissions that are contrary to the subjective rights of others, the legal obligations of the perpetrator, moral norms, and propriety, accuracy and caution in society.[77]

2.3.3. The urgency of assessing and/or determining state losses against the Treasurer through a BPK Decree in order to fulfill the element of legal certainty

The assessment and determination of state losses in general have urgency, namely: *First* , there is certainty of the value of state losses that must be returned to the state treasury; *Second* , there is certainty of the person responsible for state losses which is useful for charging state losses to the person responsible and their heirs; *Third* , as a basis for legal certainty in recording and determining state receivables; *Fourth* , the determination of receivables based on the BPK decision becomes the basis for the state to have the right to collect receivables from the person responsible for state losses; And *fifth* , as part of a series of supervision of state financial management.

Legal certainty is achieved through an assessment/determination mechanism for information on state losses, the person legally responsible, as well as the status of the resulting state/regional receivables. The Civil Code (KUHPer) stipulates that losses that can be sued are real losses. This can be proven by real protection as regulated in Article 1247 of the KUHPer. Article 1247 of the KUHPer states that a person who is in debt is required to compensate for costs, losses and interest that have actually been, or should have been foreseen when the obligation was born, unless the failure to fulfill the obligation is caused by a deception carried out by him.[78]

Under administrative law, public officials may not be held liable *in casu for state losses*, unless they are intended to enrich themselves, others, or corporations. This distinction is intended to ensure law enforcement officials render fair decisions with a sense of legal certainty.[79]

In conducting the trial, the BPK's Audit Board (MTP) also conducts an examination of parties/subjects suspected of being responsible for state losses incurred in funds management at the central and regional governments. The BPK's MTP decision can take the form of a decision to charge or release the treasurer from the obligation to compensate for state losses. With the BPK's decision specifically designating the subject specifically responsible, the Agency Head has certainty in carrying out the collection from the person responsible for the losses.

In relation to the certainty of state receivables, BPK's authority to assess and determine state losses constitutes a key stage in the legal and accounting recognition of the resulting receivables. From an accounting perspective, the existence of an assessment and determination constitutes reliable evidence and can be recognized as receivables. Statement of Financial Accounting Standards (PSAK) No. 1 also explains that financial statements must be reliable. Information has the quality of reliability if it is free from misleading interpretations, material errors, and can be relied upon by

[77]Markus Suryoutomo, Siti Mariyam, and Adhi Putra Satria, "Coherence of Judges' Decisions in Proving Intangible Compensation for Unlawful Acts," *Indonesian Journal of Legal Development* 4, no. 1 (2022): 133–49 . https://doi.org/10.14710/jphi.v4i1.139-144 .

[78]*Civil Code* (*Burgerlijk* Wetboek), translated by R. Subekti and Tjitrosudibio, (Jakarta: Pradnya Paramita, 34th edition, 2004), Article 1247.

[79]Muhammad Djafar Saidi, *State Financial Law,* (Jakarta: RajaGrafindo Persada, 2013), 148.

users as a faithful representation of what should be presented or what is reasonably expected to be presented.[80]

2.3.4. Provisions Requiring Normative Reconstruction

The deficiencies identified in the preceding analysis must be connected to the specific provisions that produce or fail to prevent them. Normative reconstruction therefore requires more than a general philosophical justification for regulatory reform. It must identify the existing provision, explain the legal deficiency arising from its formulation, and specify the normative content required to improve procedural fairness, institutional accountability, enforceability, and legal certainty. Table 3 maps the provisions of BPK Regulation No. 3 of 2007 that require reconstruction and provides the normative basis for the reform proposals developed in the following subsection.

Table 3. Provisions of BPK Regulation No. 3 of 2007 Requiring Normative Reconstruction

Provision	Existing Focus	Normative Deficiency	Proposed Reconstruction
Arts. 6(2)(c), 11–12	TPKN verifies evidence; BPK determines loss and responsibility.	No express guarantee of evidence disclosure or treasurer participation before initial determination.	Require notice, access to evidence, response rights, and hearings for disputed facts.
Arts. 22–24	Treasurer may object after SK-PBW.	Limited guarantees for file access, hearings, witnesses, and panel separation.	Ensure file access, hearing rights, witnesses/experts, and an independent objection panel.
Arts. 25–28, esp. Art. 26(2)	BPK issues a final Charge Decision.	Decision-reasoning requirements and meaning of "final" are unclear.	Require reasoned decisions and clarify that finality does not exclude judicial review.
Arts. 29–33, 36	Institution executes payment, seizure, auction, and reporting.	Weak monitoring, escalation, and case-closure mechanisms.	Require execution plans, periodic reporting, monitoring, and formal closure.
Art. 38	Sanctions mainly address treasurers and failure to report losses.	No clear accountability for failure to process or execute decisions.	Extend sanctions to unjustified failures in processing, execution, monitoring, and reporting.

[80] Indonesian Institute of Accountants, *Financial Accounting Standards as of September 2007* (Jakarta: Salemba Empat Publisher, 2007), p. 3. Section Basic Framework for Preparation and Presentation of Financial Statements - Objectives of Financial Statements Paragraph 14.

Art. 41	BPK may establish the Treasury Claims Council.	Limited regulation of impartiality, panel structure, recusal, and regional support.	Clarify panel structure and permit regional procedural support while final authority remains with BPK.
Art. 42	Court judgments may be used as evidence; recovered sums are credited.	Relationship between judicial findings and BPK assessment remains unclear.	Clarify the effect of judgments, separate administrative liability, and prevent double recovery.

Source: BPK Regulation No. 3 of 2007, particularly Articles 6, 11–12, 22–33, 36, 38, 41, and 42.

Table 3 shows that the need for reconstruction arises from identifiable normative gaps rather than merely from abstract ontological or philosophical considerations. The principal deficiencies concern evidentiary disclosure and participation, the effectiveness and impartiality of objection proceedings, the reasoning and reviewability of BPK decisions, execution and institutional accountability, the organizational basis of the Treasury Claims Council, and coordination with court judgments. These provisions provide the normative framework for the reconstruction proposals discussed in Section 2.3.5.

2.3.5. Proposed Reconstruction of BPK's Treasury-Claim Procedure

Based on the normative gaps identified in Table 3, the reconstruction of BPK Regulation No. 3 of 2007 should address four interrelated dimensions: evidentiary assessment, quasi-judicial procedural safeguards, the distribution of institutional functions, and the implementation of BPK decisions. According to the Great Dictionary of the Indonesian Language, reconstruction means 1) returning to the original state, and 2) re-arranging (representing). [81]Meanwhile, in the context of criminal law, legal reconstruction is the re-arranging, reorganizing, and re-examining of the crime by repeating the actual event, carried out by both investigators and judges, to gain conviction.[82]

The definition of reconstruction in relation to legislation is found in *Black's Law Dictionary*, which states that reconstruction is the act of rebuilding. In this context, when the form of legislation has begun to lose its context, then it is necessary to reconstruct the law. This meaning implies modifying, or even extreme to destroy the old structure to then rebuild a more appropriate legal structure (*Act of constructing again. It is to presuppose the nonexistence of the thing to be reconstructed, as an entity that the thing before existing has lost its entity*).[83]

Several reconstruction concepts that can be carried out under the authority of the BPK in assessing and/or determining state losses to the treasurer in order to fulfill the element of legal certainty, namely:

1) Ensure that the PMH assessment meets the elements of Legal Certainty

[81]https://kbbi.web.id/rekonstruksi , accessed on February 22, 2025.
[82]Andi Hamzah, *Legal Dictionary,* (Jakarta: Ghalia Indonesia, 2005), 46.
[83]Henry Campbell Black, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*, ed. The Publishers Editorial Staff, Revised Fo. (Saint Paul: West Publishing, 1968), 1437.

As outlined in the previous discussion, the BPK's PMH assessment is "only" based on the TPKN verification report submitted by the agency's head. Furthermore, the PMH assessment can also be based on evidence contained in a court decision if the case of state losses against the treasurer in question has been processed by the court.

The above arrangement renders the BPK Treasury Claims Council relatively passive, because the evidentiary basis is derived primarily from data and information collected and verified by the TPKN within the relevant agency. This differs from proceedings before the State Administrative Courts, where the adjudicative process is informed by principle of judicial "activeness of the judge" (*dominus lit is*) in examining the relevant evidence. The role of the principle of judges' activeness is needed since the examination of state administrative disputes becomes the authority of the judge at the pre-proof stage, the proof stage and the decision-making stage by the judge as a process of *Judicial Activism.*[84]

2) Implementation of *quasi-judicial* assessment and/or determination of state losses against treasurers in accordance with judicial principles

The definition of *quasi-judicial* according to the Merriam-Webster law dictionary is "*having a partly judicial character by possession of the right to hold hearings on and conduct investigations into disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts*." [85]This is not fully part of the judicial institution, it performs adjudicative functions resembling those of a court, , such as conducting hearing, , investigate disputed claims or alleged violations, and issuing reasoned decisions.

BPK Regulation No. 3 of 2007, as the principal procedural regulation governing the assessment and/or determination of state losses involving treasurers, does not expressly require the presence of the head of the agency or a representative official, nor does it guarantee the treasurer's direct participation in the principal evidentiary examination. The absence of this regulation in BPK Regulation No. 3 of 2007 could lead to a loss of legal certainty in the process of resolving state losses against treasurers.

In various expert opinions, the aspect of legal certainty in the material sense emphasizes the certainty of protection of citizens' rights and the fulfillment of hopes that have been raised by government officials. In this case, according to Kuntjoro Purbopranoto in his book "Some Notes on Governance Law", the principle of legal certainty requires a person's rights that have been obtained based on a respected government decision. Therefore, every decision made by the Government cannot be revoked, unless important things raise that serve as the basis for the revocation and this must be proven through a legitimate judicial process.[86]

Another institution that can be used as *a benchmark in implementing quasi-judicial* functions outside the Supreme Court's judicial system, but still enforces disputes resolution principles that are guided by the principles of a judicial institution,

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[84]See Retno Nawangsih, Mailinda Eka Yuniza, The Role of the Principle of Judges' Activeness (*Dominus Litis*) in "The Process of Settling State Administrative Disputes by State Administrative Court Judges", accessed at https://etd.repository.ugm.ac.id/penelitian/detail/71564 on April 30, 2025.

[85]https://www.merriam-webster.com/dictionary/quasi-judicial , accessed April 30, 2025.

[86]Ridwan HR, 84.

called the Information Commission. The Information Commission was established based on Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP), which has the function of implementing the KIP Law and its implementing regulations,establishingtechnicalguidelinesforpublicinformationservicestandards and resolving public information disputes through mediation and/or non-litigation adjudication.[87]

Regardingtheprovisionofevidenceandtheapplicationoftheprincipleofhearing both parties (*audi et alteram partem*), the examination and evidence process at the Information Commission has legally implemented the aforementioned principle. Article 44 of the KIP Law states if the Information Commission receives a request for the resolution of a Public Information Dispute, the Information Commission will provide a copy of the request to the respondent. [88]The respondent is the head of the Public Agency or a designated official whose testimony is heard during the examination process.[89]

Principle *audi et alteram partem* is also regulated in the evidence of the Public Body as the respondent, where it must prove things that support its opinion if it states that it cannot provide information, and also provide reasons that support its stance if the Public Information Applicant submits a request for resolution of the Public Information Dispute.

Fundamental procedural safeguards, including an active role for the Treasury Claims Council in assessing alleged unlawful conduct and a meaningful opportunity for the treasurer to be heard, present evidence, and respond to the evidentiary record, can be expressly regulated in a BPK Regulation No. 3 of 2007 to ensure the creation of legal certainty.

3) Overcoming *span of control* that is too wide.

As outlined in the introduction and discussion, the assessment and/or determination of state losses through a BPK Decree, as mandated by the State Treasury Law and the BPK Law, is translated into BPK Regulation No. 3 of 2007 into a Decree resulting from a quasi-judicial process through a Treasury Claims Council hearing.

The MTP, which consists of BPK members and operates at the Central BPK, creates an excessively wide span of control in handling treasury claims cases arising across various central and regional governments entities. This does not include the managers of state-owned enterprises (BUMN), regional-owned enterprises (BUMD), and other bodies that manage state finances, which also fall within the MTP's authority to assess and/or determine state losses.

Therefore, decentralizing selected procedural and evidentiary functions to BPK Representative Offices in each province could help accelerate the issuance of BPK Imposition Decisions strengthening legal certainty. This delegation of authority can be implemented through attribution through BPK Regulations from the Central BPK MTP to the Provincial BPK Representative Offices.

[87]Law Number 14 of 2008 concerning Public Information Disclosure, Article 1 number 4.
[88]Law Number 14 of 200, Article 44 paragraph (1).
[89]Law Number 14 of 200, Article 44 paragraph (2).

The delegation of authority in assessing and/or determining state losses involving the treasurer is a necessity in the bureaucratic era of modern state administration organizations. As expressed by Max Weber in *The Theory of Economic and Social Organization*, one of the characteristics of an organization that is relevant with modern society is the existence of a hierarchical structure involving delegations of authority from the top to the bottom of an *organization*.[90]

From the perspective of government decentralization principle, according to Weber, there are two types of authority in his theory: rational-legal authority, which is depending on regulations, and traditional authority, which is based on historical and cultural events that influence the distribution of power. The concept of power structure encompasses many components, such as the hierarchy that determines who is responsible and has authority within an organization.[91]

The delegation of authority through the revision of BPK Regulation No. 3 of 2007 can be done by reconstructing the flow of BPK instructions and decisions in assessing and/or determining state losses to the treasurer.[92]

4) The absence of sanctions for entities to follow up on the BPK Tax Imposition Decision Letter (SKP) by making adequate collection efforts.

In modern financial management, financial losses are not solely the fault of the treasurer. Rather, a modern treasury system is needed to prevent irregularities. By shifting some of the blame to an institutionalized internal control system, a collective responsibility for preventing cash shortages and recovering state losses is emerging.

In the various framework governing the procedures for compensation for state financial losses involving treasurers, there have not been any sanctions found for entity leaders if they do not follow up on the BPK Decree to make maximum efforts to collect the amount of losses that have been determined for the treasurer or his heirs.

3. CONCLUSION

This study concludes that state losses satisfying the elements stipulated in Article 1 number 22 of Law No. 1 of 2004 concerning the State Treasury are primarily addressed within the framework of administrative law. Unless in subsequent proof by law enforcement officials, there are legal deficiencies in the form of Coercion (*dwang*) or bribery (*omkoperij*) or Deception of a trick nature (*kuntsgrepen*) in the form of engineering the use of state funds that do not comply with the provisions of laws and regulations.

BPK's authority to assess and/or determine state losses involving treasurers has an ontological and philosophical basis, supported by a statutory framework comprising the state Treasury Law package, the State Financial Management Audit Law, the

[90] Muhammad Sawir, *Public Service Bureaucracy, Concepts, Theory and Applications*, (Yogyakarta: Deepublish, 2020), 7-8.

[91] Muhammad Ali, et al., "Max Weber's Approach: Bureaucracy and Power Structure in Modern Educational Organizations," *Cahaya Mandalika Journal,* Vol. 3, No. 2, 2023, 2134–2145. https://doi.org/10.36312/jcm.v3i2

[92] Theoretically, authority or power originates from statutory regulations. It is obtained through three ways, namely: 1) attribution, 2) delegation, and 3) mandate. In attribution, new government authority is granted by a provision in statutory regulations, thus giving birth or creating a new authority. In delegation, there is a transfer of existing authority by a state administrative body or position that has obtained attributive government authority to always preceded by an attribution of authority. See Nurul Qamar and Farah Syah Reza, " Authority as an Instrument of Governance in a Legal State System", *Asas Wa Tandhim - Journal of Law, Education, and Religion*, ISSN: 2828-0504 Volume 2 Number 2 Year 2023, 201 -222. https://doi.org/10.47200/awtjhpsa.v2i2.1781

BPK Law, and its implementing regulations, BPK Regulation Number 3 of 2007. The existence of *asymmetric information* in state financial management (state/regional cash management) is *the ratio legis* for the authority to determine state losses against treasurers given to the BPK. To strengthen legal certainty, the settlement of state losses involving treasurer through amendments to BPK Regulation Number 3 of 2007 by incorporating stronger quasi-judicial principles, including an active evidentiary role for the treasury claims council and meaningful participation of the treasurer under the principle of (*audi alteram partem*), reducing the existing the span *of control* by delegating authority to the BPK Representative in each province with an attribution mechanism through regulations in the BPK Regulation. As well as establishing clearer institutional responsibility for the recovery of state/regional rather than placing the entire burden solely on the treasurer.

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