

The Problems of Reviewing the Audit Report of the Financial Audit Board

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Abstract: The judiciary has diverse decisions regarding on their competence to review the Audit Report of the Financial Audit Board (the LHP BPK). Some of judges in ordinary courts regarded that the LHP BPK falls in the competence of Administrative Courts; however, some judges of Administrative Courts regarded that the LHP BPK is not similar to an administrative decision; so that, they decline to review the LHP BPK. Therefore, this paper aims to evaluate where and how should the LHP BPK be reviewed? This study uses a normative juridical research method using secondary data in the form of regulations, books, articles, research, and journals to analyze the position of the LHP BPK as a form of implementing the duties, functions, and authority of BPK as an independent institution. This research finds that the problematic situations occur because of legal loopholes due to the silent of the Law. Legislature therefore needs to promulgate norms on the matter. Meanwhile this study offer some temporary solutions to mitigate the loopholes.

Keywords: Audit Report; The Financial Audit Board; Administrative Court; Lawsuit

1. Introduction

The Financial Audit Board or hereinafter referred to as the BPK is an independent institution established in accordance with Article 23E of the 1945 Constitution (Constitution) juncto Law Number 15 of 2006 concerning the Financial Audit Board and serves as one of the state branches along with the executive, legislative, and judiciary. In accordance with the legal basis of its establishment, the BPK functions as a financial audit institution tasked with conducting audits of state financial management and responsibility. The results of the implementation of its duties and functions are in the form of an audit report “Laporan Hasil Pemeriksaan” which is hereinafter referred to as the LHP.

The Audit Report of the Financial Audit Board, hereinafter “the LHP BPK” is issued after the audit has accomplished. Administrative decision that falls in the competence of administrative court is that a decision which has concrete, individual and final which cause legal consequence for a person or civil legal entity.¹ If reviewed from the LHP BPK vonatins² which contains concrete audit opinions but does not refer to certain matters such as the granting of business licenses, not individuals or refers to certain persons where all the information presented in the LHP BPK is the result of an audit of financial statements where financial statements contain information that is the responsibility of the government and is not final because there is still a follow-up process, so that the LHP BPK does not qualify as an administrative (TUN) decision³.

The report then will give legal rights and obligations to the audited officer, trasurer, non treasurer and third party. It is not uncommon for the LHP BPK to be sued both in ordinary court (via private litiagation) or in administrative court. In fact, the lawsuit against the LHP BPK caused a difference of opinion among judges about the authority to adjudicate the object of the lawsuit/object of dispute. For example, there is a difference of opinion between judges regarding the competence to review civil and administrative petitions against the LHP BPK. In the civil lawsuit Number 187/Pdt.G/2014/PN. SMG in the Semarang District Court that is the object of the lawsuit is the LHP on the 2012 Sukoharjo Market Development Regional Expenditure in the Sukoharjo Regency Government Number 01/LHP/BPK/XVIII.SMG/02/2014. The district court regarded that the LHP is an administrative decision indicated by the character of concrete, individual, and final; therefore the court declined the petition as it was not the jurisdiction of ordinary (district) court; rather it was the competence of administrative court.

Nevertheless, there was a case in Jambi administrative court with the registration number 20/G/2018/PTUN.JBI. The object of the lawsuit was the LHP on the Jambi City LKPD FY 2015 Number 20.C/LHP/XVIII.JMB/5/2016. Another example is that, the Supreme Court’s Cassation Decision Number 446 K/TUN/2017 which states that the object of dispute in the form of the LHP BPK is not a TUN Decision. This cassation decision annuled two previous decisions, namely the Decision of the

1 Article 1 number 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court

2 Article 15 and Article 16 of Law Number 15 of 2004 concerning the Audit of State Financial Management and Responsibility

3 Article 1 number 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court

Medan State Administrative Court Number 85/B/2017 PTTUN. MDN and Jambi PTUN Decree Number 20/G/2016 PTUN. JBI. In essence the administrative court regarded that BPK carries out the functions of its institution in carrying out the audit of state financial management and responsibility as stipulated in the Constitution. Therefore, the BPK is not to carry out the government functions, so that the LHP is not classified as an administrative decision, and thus is not the competence of administrative court to review the matter.

In 2019, the Supreme Court issued Regulation (Perma) Number 2/2019. It clarified the expansion of the competence of administrative court, from merely examining the decision to also review the government action. It then brought to a discussion whether the LHP BPK can be classified as government action and therefore can be brought before the administrative court.

Perma Number 2 of 2019 was born by providing clarity on the authority to adjudicate objects of dispute for unlawful acts by government agencies and/or officials. The Administrative Court (PERATUN) that examines, adjudicates, and decides “disputes over government actions” or “disputes over unlawful actions by government agencies and/or officials (*onrechtmatige overheidsdaad*).⁴ However, the issue remains, because the BPK is not classified as the administration or executive organ as referred to in the Government Administration Law⁵. Meanwhile, Article 1 number (1) of Perma Number 2 of 2019 views the object of dispute as a government action. Government actions are defined as the actions of government officials or other state administrators to conduct commission or omission in the context of government administration.⁶

The same thing also happened in the Sinabung District Court Decision, Number 1/Pdt.G/2021/PN Snb. The object of the civil lawsuit in this case is the Audit Result Manuscript (NHP) for the 2019 Fiscal Year, which contains findings of overpayment of official travel expenses of the Simeulue Regency House of Representatives (DPRK). The plaintiffs are 13 members of the DPRK (Plaintiffs I to Plaintiff XIII) of Simeuleu Regency, Nanggore Province of Aceh Darussalam. While the Defendant has six parties including the Audit Board of the Republic of Indonesia cq Aceh Provincial Representative of BPK RI (Defendant V). The judge concluded that the case is beyond the court competence.

The plaintiff must have a formal mechanism if he is harmed by the LHP BPK when it is considered to have committed an unlawful act. The mechanism in question is a mechanism to complain or demand, evaluate, examine, and substantively improve the LHP BPK. Thus it is relevant to discuss where and how the LHP BPK should be reviewed, under the administrative court or civil/ordinary court?

4 Article 1 number 9 of Perma Number 2 of 2019 concerning Guidelines for Dispute Resolution of Government Actions and the Authority to Prosecute Unlawful Acts by Government Agencies and/or Officials (*Onrechtmatige Overheidsdaad*)

5 Article 1 number 2 of Law Number 30 of 2014 concerning Government Administration

6 Article 1 number 1 of Perma Number 2 of 2019 concerning Guidelines for Dispute Resolution of Government Actions and the Authority to Prosecute Unlawful Acts by Government Agencies and/or Officials (*Onrechtmatige Overheidsdaad*).

2. Methodology

This type of research uses a qualitative method⁷ with normative juridical research. The problematic approach used to discuss legal issues in this study uses a legislative approach and a conceptual approach.⁸ Normative-jurisprudential research is conducted on legal principles, theories, concepts, legal and regulatory approaches, court decisions, and doctrines. Normative juridical research was conducted on the position of the BPK in the order of the state institutional structure and its relation to the implementation of government functions and the LHP BPK in relation to the object of the dispute or the object of the lawsuit by analyzing the regulations on PERATUN and unlawful acts.

3. Authority to sue PERATUN against the LHP BPK based on the provisions of relevant laws and regulations

The BPK is an independent state institution established based on Article 23E of the 1945 Constitution to carry out the task of auditing state financial management. After the amendment of the 1945 Constitution, the position of the BPK in the administration of the state was parallel to the legislative, executive, and judicial powers. The position and authority of the BPK is strengthened through Undang-Undang Number 15 of 2006 juncto with Undang-Undang Number 15 of 2004, namely as *a constitutional state*. In accordance with the functions given to BPK expressly in accordance with the law, BPK does not carry out government functions as referred to in the Governance and Law on PERATUN. The BPK received constitutional support from the MPR-RI through the 2002 Annual Session, by strengthening the position of BPK RI as an external audit institution in the field of State Finance. At that time, the MPR-RI stipulated MPR Decree Number VI/MPR/2002. The contents of the MPR TAP reaffirm, among others, the position of the BPK as the only external audit institution of state finances and its role needs to be further strengthened as an independent institution and Professional⁹.

The BPK as an external audit institution of state finances that is independent and has examinative power that has the authority to audit state finances.¹⁰ In the field of supervision of government performance, the BPK is *auxiliary* to the DPR. So that in carrying out its duties and functions based on the law to carry out audits on state financial management, the LHP BPK cannot be said to be a result of government acts. The LHP BPK is an output of the implementation of BPK's duties as a state institution regulated by the constitution. Thus, the LHP BPK is not a product of the implementation of government functions. The LHP BPK is not prepared by TUN agencies or officials who carry out government affairs but carries out its duties and functions as regulated by the relevant law. The LHP BPK contains opinions on financial management as stated in the financial statements, are concrete but do not refer to a specific matter such as the granting of business licenses. In addition, because the LHP BPK contains audit opinions that do not refer to specific individuals

7 John W. Creswell and J. David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods. Fifth edition*. (Los Angeles: SAGE Publications, 2018), p. 41.

8 I Made Pasekl Diantha, *Normative Legal Research Methodology in the Justification of Legal Theory*, 3rd edition (Jakarta: Prenadamedia Group, 2019), p. 12.

9 ¹⁰ <https://ntt.bpk.go.id/wp-content/uploads/2016/03/Tulisan-Hukum-BPK-Perwakilan-NTT>

10 Kelik Iswandi, Nanik Prasetyoningsih, 2020, The Position of State Auxiliary Organs in the Constitutional System in Indonesia, *Journal of Law Enforcement and Justice*, Volume 1 Number 2, p. 144.

where all the information presented in the LHP BPK is the result of examination of financial statements where financial statements contain information that is the responsibility of the government, so that the LHP BPK does not meet the individual and final requirements which are criteria of the object of TUN, namely the TUN Decision¹¹.

Jimly Asshiddiqie explained that the function of the BPK consists of three main areas, namely the operational function, the judicial function, and *the advisory*¹² function. The implementation of the three functions of BPK is manifested in the implementation of BPK's duties and functions in conducting an audit of state/regional financial management based on the BPK Strategic Plan. Lawsuits against the LHP BPK, both civil and TUN, are often considered the most effective way to substantively resolve the LHP BPK problems. The following are lawsuits for legal actions filed for the 2019–2023 period as listed in Table 1.

Table 1 Data on Civil Lawsuits Against the LHP BPK from 2017 to 2019

No	Year	Item No.	Court	Condition	Punishment
1	2018	127/PDT. G/2018/PN. JKT. TEAM	East Jakarta District Court	<i>Strength</i>	<i>East Jakarta District Court Decision</i> <i>Stating that the East Jakarta District Court does not have the authority to adjudicate case No. 127/PDT. G/2018/PN. JKT. TEAM</i>
2	2018	75/PDT. G/2018/ PN. KPG	Kupang District Court	<i>Strength</i>	<i>Punishment</i> <i>a. Accept the absolute exception of authorities that do not have the authority of the court to adjudicate</i> <i>b. The appeal was rejected by cassation decision number 1733 K/ PDT/2022</i>

The Supreme Court issued Perma Number 2 of 2019 which emphasizes the Regulator's jurisdiction over TUN Decisions and unlawful acts by government agencies and/or officials so that lawsuits for unlawful acts against BPK are transferred to TUN lawsuits as a revocation of lawsuits in cases number 144/Pdt.G/2019/PN.Tng and 1182/Pdt.G/2023/PN. TNG. The following are lawsuits for unlawful acts filed for the period 2019 – 2023 as listed in Table 2.

11 Article 1 number 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court.

12 Jimly Asshiddiqie, 2010, *Development & Consolidation of State Institutions After Amendment*, Jakarta: Sinar Grafika, p.144.

Table 2 Data on Civil Lawsuits Against the LHP BPK from 2019 to 2023

No	Year	Item No.	Court	Condition	Punishment
1	2019	144/Pdt.G/2019/ PN.Tng	Tangerang District Court	<i>Strength</i>	<i>Lawsuit withdrawn</i>
2	2019	227/Pdt.G/2019/ PN. SMG	Semarang District Court	<i>Strength</i>	<i>First instance verdict</i> <i>Declare that the defendant has committed an unlawful act</i>
3	2020	369/PDT/2020/ PT SMG	PT Semarang	<i>Strength</i>	<i>Appeal-level decision</i> <i>a. Cancellation of the Semarang District Court decision Number 227/ Pdt.G/2019/PN SMG</i> <i>b. Stating that the Sema- rang District Court does not have the authority to examine and ad- judicate the lawsuit Case Number 227/ Pdt.G/2019/PN SMG</i>
4	2021	1/Pdt.G/2021/ PN.Snb	PN Sinabang	<i>Strength</i>	<i>Punishment</i> <i>Stating that the Sinabang District Court does not have the authority to ex- amine and adjudicate the lawsuit case Number 1/ Pdt.G/2021/PN. Snb</i>
5	2021	246/Pdt.G/2021/ PN.Mdn	Medan District Court	<i>Strength</i>	<i>Punishment</i> <i>Declaring the plaintiff's lawsuit unacceptable</i>
6	2021	3/Pdt.G/2021/ PN.Snb	PN Sinabang	<i>Strength</i>	<i>Punishment</i> <i>Declaring that the Sinabang District Court does not have absolute authority to examine and adjudicate cases with case registration number 3/Pdt.G/2021/ PN.Snb</i>

No	Year	Item No.	Court	Condition	Punishment
7	2022	5/Pdt.G/2022/PN. Tub	PN Tubei	<i>Strength</i>	<i>Representative of BPK Bengkulu Province as Joint Defendant 3</i> <i>Punishment</i> <i>Declaring the Plaintiff's lawsuit unacceptable</i>
8	2023	84/Pdt.G/2023/PN. With	Ambon District Court	<i>Strength</i>	<i>Maluku Province BPK Representative as Joint Defendant 5</i> <i>Punishment</i> a. <i>Granting the Plaintiff's lawsuit in part</i> b. <i>Ordering defendant 1, defendant 2, and defendant 3 to carry out the recommendations of the BPK Maluku Provincial Representative</i> c. <i>Dismissing Plaintiff's lawsuit for remainder</i>

The TUN Decision that can be submitted as a basis in a TUN lawsuit is¹³ a TUN Decision that is contrary to the applicable laws and regulations and/or a TUN Decision that is contrary to the general principles of good governance. Based on the above and armed with Perma Number 2 of 2019, TUN's lawsuit against the LHP BPK, which has been *in the status of inkracht* with the list of Table 3, is as follows.

Table 3 TUN Lawsuit Data Against the LHP BPK from 2017 to 2023

No	Year	Item No.	Court	Condition	Court
1	2017	119/G/2017/PTUN. BDG	Bandung State Administrative Court	<i>Strength</i>	<i>Punishment:</i> <i>stated that the Bandung TUN Court did not have the authority.</i>

¹³ Article 53 paragraph (2) of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning the State Administrative Court

No	Year	Item No.	Court	Condition	Court
2	2018	136/G/2018/PTUN. SBY	Surabaya State Administrative Court	<i>Strength</i>	<i>Punishment</i> <i>declare the plaintiff's lawsuit unacceptable</i>
3	2018	158/G/2018/PTUN. SBY	Surabaya State Administrative Court	<i>Strength</i>	<i>Punishment</i> <i>Declaring that the plaintiff's lawsuit is inadmissible (does not meet the formal requirements),</i> <i>the court does not have the authority to adjudicate</i>
4	2021	79/G/2021/PTUN. JKT	Jakarta State Administrative Court	<i>Strength</i>	<i>Punishment</i> <i>Declaring the plaintiff's lawsuit unacceptable</i>
5	2021	61/G/2021/PTUN. Mdo	Manado State Administrative Court	<i>Strength</i>	<i>Punishment</i> <i>Declaring that the Court has no authority to prosecute</i>

From the results of the Decision, based on its jurisdiction, PERATUN does not have absolute authority over the LHP BPK as the object of the lawsuit. The birth of Perma Number 2 of 2019 which provides clarity on the jurisdiction of PERATUN actually does not provide clarity of absolute authority to PERATUN to examine and adjudicate lawsuits against the LHP BPK.

Arrangements related to the exemption of the LHP BPK as a TUN Decree or the expansion of the TUN Decree have not been clearly regulated. The Law on PERATUN regulates exceptions and restrictions on TUN Decisions, namely in Article 2, Article 48, Article 49, and general explanations. These exceptions and restrictions are caused by the existence of several types of TUN Decisions which, due to their nature or purpose, cannot be categorized in the sense of TUN Decisions, so they are not the authority of TUN to examine and adjudicate. Exclusions and limitations as intended are divided into direct restrictions and indirect restrictions.

Direct restriction is a restriction for PERATUN to not be able to examine and decide a case at all as referred to in Article 2, Article 49, and the general explanation of the Law on PERATUN. Meanwhile, indirect restrictions are absolute competency restrictions that still open the possibility for PERATUN to examine, decide, and resolve TUN disputes as referred to in Article 48 of the Law on PERATUN.

The regulatory vacuum is a loophole for certain parties to categorize the LHP

BPK as a TUN Decision or an expanded TUN Decision. Law Number 30 of 2014 concerning Government Administration which regulates the implementation of government functions by state agencies/institutions does not categorize BPK as a state institution that carries out government functions. So that both the Government Administration Law and the Law on PERATUN are quite clear that the BPK exercises the authority given by the constitution and not carries out government functions. Therefore, the LHP BPK is not the jurisdiction of PERATUN and cannot be used as the object of a TUN lawsuit. The Supreme Court's Legal Fatwa Number 19/KMA/HK.01/III/2014 states that based on Law Number 15 of 2004 and Law Number 15 of 2006, no other institution/agency/agency is given the authority to conduct assessment/testing of the LHP BPK. Although the LHP BPK is not the object of TUN's lawsuit, it does not mean that the LHP BPK cannot be audited/tested, the party that can conduct the assessment/testing of the LHP BPK is an institution that professionally has competence in the field of auditing state financial management and responsibility, namely BPK of other countries or financial audit *institutions*¹⁴. This Supreme Court fatwa is in line with Article 23E of the 1945 Constitution and Law Number 15 of 2006 concerning the Financial Audit Agency. Thus, PERATUN is not authorized to examine, adjudicate, and decide disputes of the LHP BPK.

4. Problem Resolution Mechanism for the LHP BPK Substantively

Law Number 17 of 2003 concerning State Finance explains the basic rules that have been stipulated in the 1945 Constitution as general principles of state financial management¹⁵, one of which is the Principle of Financial Audit by an Independent and Independent Financial Audit Body. This principle of state financial management is the basis that all state ministries/institutions that carry out the management and responsibility of state finances must be audited by an independent financial audit institution, namely the BPK. The Law on State Finance, including the Law on BPK, currently only regulates the mechanism for resolving the LHP BPK problems administratively. So that the administrative steps that can be taken by the examined party are only limited to the process of carrying out the examination, namely by providing a response to the concept of the examination findings and at the stage of following up on the results of the examination by following up on the recommendations of the examination team.

The general judiciary itself has also not fully provided space for the judicial resolution of these problems. The loophole given in the Law on the Administrative Court of Canada and the Law on Government Administration is used as an entrance in the hope that the LHP BPK can be canceled in a TUN manner (see discussion point 3). This causes the LHP BPK to seem to be immune from the law. Likewise, the birth of Perma Number 2 of 2019 concerning Guidelines for Dispute Resolution of Government Actions and the Authority to Prosecute Unlawful Acts by Agencies and/or Government Officials (*Onrechmatige Overheidsdaad*) has not been able to accommodate lawsuits against the LHP BPK which in substance is not an unlawful act of government agencies and/or officials. This means that the administrative settlement is considered incapable of providing the solution expected by the examined party, so the lawsuit does not provide the same solution.

14 Article 33 of Law Number 15 of 2006 concerning the Financial Audit Board

15 General Explanation of Law Number 17 of 2003 concerning State Finance jo General Explanation of Law Number 1 of 2004 concerning State Treasury

Further explanation in a substantive way, the mechanism for resolving the LHP BPK problems in accordance with the state financial law administratively can be done in 3 (three) ways, namely:

a. Procedures for Solving the LHP BPK Problems through the Mechanism for Providing Responses to the Concept of Audit Findings

The implementation of audits conducted by BPK starts from planning, implementation, to audit reporting is regulated in BPK Regulation Number 1 of 2017 concerning State Financial Audit Standards jo BPK Decree Number 5/K/I-XIII.2/10/2015 concerning Audit Management Guidelines. The audit process involves parties including state financial auditors, responsible parties (audited entities), and LHP users. In summary, the process of implementing the audit conducted by the BPK is as follows.



1) Inspection Planning

Audit planning includes technical preparation and audit support. *The outputs produced* from the audit planning process are the Audit Program and Assignment Letter.

2) Implementation of Inspection

At this stage, the Audit Team conducts an examination of the conditions and criteria in the form of related laws and regulations. In the event that a discrepancy is found between the conditions in the field and the existing criteria, the Inspection Team can continue the investigation by requesting information from the relevant parties to enforce the alleged irregularities. Testers can obtain data and information by conducting observations, interviews, surveys, and measurements, among other things. The sufficiency of the evidence is based on the examiner's belief that the evidence leads to a reliable conclusion¹⁶.

Audit findings are findings or indications of problems obtained during the audit. Basically, the Examination Findings relate to:

16 Statement of State Financial Audit Standards 200 Appendix III of the Audit Board Regulation Number 1 of 2017 concerning State Financial Audit Standards, p. 50

1. Non-compliance with the provisions of laws and regulations, irregularities, and material impropriety to be reported;
2. Weaknesses in the Internal Control System (SPI) which is material that must be reported;
3. The failure of the program examined; and
4. Non-conformity of conditions with the set criteria¹⁷

The concept of the audit findings that have been reviewed is submitted to the officials of the entity being examined for comments/responses from the institution. Officials of the audited entity are given time to provide responses that agree or disagree with the concept of Audit Findings. Objections can be made by submitting data, documents, and other information stating that the concept of the Audit Findings submitted is inappropriate and can be canceled. In the event that the data/information submitted by the audit entity cannot prove the existence of an analysis error in the concept of Audit Findings (it does not have a strong basis to cancel the Audit Findings), then the concept of Audit Findings is declared as Audit Findings.¹⁸ At this stage, it can also be used by related parties to provide confirmation in the form of approval, information, or rebuttal to the concept of audit findings by first coordinating with the audited entity. The examined person can provide a rebuttal to the audit findings by submitting correct documents/data so that the audit findings are null and void and not included in the LHP (administrative) BPK.

3) Inspection Reporting

The audit findings that have been approved by the officials of the inspected entity are then compiled in the form of the LHP BPK. The BPK submits the LHP to the audited entity for follow-up on the recommendations of the audit results and to other related parties in accordance with the provisions of laws and regulations. The results of the examination containing criminal elements are submitted to the authorized agencies in accordance with the provisions of laws and regulations.¹⁹ At the stage of the implementation of the audit, the rebuttal of the party who felt aggrieved by the LHP BPK was rejected because it was not strong enough to cancel the audit findings, then the aggrieved party could take advantage of the follow-up stage of the audit results to follow up on the audit findings (administrative).

b. Procedures for Solving the LHP BPK Problems through the Audit Results Follow-up Mechanism

The LHP BPK contains recommendations for audit results to be followed up by the audit entity. In accordance with Article 20 and Article 21 of Law number 15 of 2004 concerning the Audit of State Financial Management and Responsibility jo Article 7 and Article 8 of Law Number 15 of 2006 concerning the Financial Audit Agency, it is stated that the follow-up of the audit results is

¹⁷ *Op Cit*, p. 49

¹⁸ CHAPTER III Implementation of Financial Audit, BPK Decree No. 5/K/I-XIII.2/10/2015 concerning Audit Management Guidelines, p. 52

¹⁹ Article 8 of Law No. 15 of 2006 concerning the Financial Audit Board jo CHAPTER III concerning the Implementation of Financial Audits, BPK Decree No. 5/K/I-XIII.2/10/2015 concerning Audit Management Guidelines, p. 77

a step to complete the recommendations on the audit findings.

The BPK conducts a monitoring process on the implementation of follow-ups carried out by the audited entities within a certain period of time. The entity being examined can provide a valid reason if in the follow-up implementation process there are recommendations that cannot be implemented. Article 5 of BPK Regulation Number 2 of 2017 concerning Monitoring the Implementation of Recommendations for Follow-up on Financial Audit Results regulates legitimate reasons, including:

- 1) Force majeure, i.e. conditions of war, riots, revolutions, natural disasters, strikes, fires, and other disturbances that make follow-up impossible;
- 2) Diseases evidenced by a doctor's certificate;
- 3) Become a suspect and be detained;
- 4) Punished; or
5. Other valid reasons based on the provisions of laws and regulations.

This valid reason does not eliminate the obligation of the examining officer to complete the follow-up of the exam results. The BPK conducts follow-up reviews submitted by the inspected officials to classify the status of the follow-up. BPK Regulation Number 2 of 2017 regulates the classification of follow-up status in 4 (four) criteria, namely²⁰:

- 1) Follow-up has been in accordance with the recommendations, namely if the BPK recommendations have been adequately followed up by the Official;
- 2) Follow-up is not in accordance with the recommendations, namely if the follow-up of the BPK recommendation is still in process by the Officer or has been followed up but not fully in accordance with the recommendations;
- 3) Recommendations have not been followed up, namely if the BPK recommendations have not been followed up by the Official; and
- 4) Recommendations that cannot be acted upon, namely recommendations that cannot be acted upon effectively, efficiently, and economically based on BPK's professional considerations.

Recommendations cannot be followed up effectively, efficiently, and economically as referred to in the classification of follow-up status number 4 (four), which is in the form of²¹:

- 1) Changes in organizational structure;
- 2) Regulatory changes;
- 3) Court decisions that have permanent legal force but are different from BPK's recommendations; and/or
- 4) The recommended subject died.

A court decision with legal force can still be in the form of a court

²⁰ Pasal 7, *op cit*.

²¹ Chapter III Mechanism for Monitoring Follow-up Audit Results, Subchapter B Jabawan Review or Explanation of Follow-up, BPK Decree Number 1/K/I-XIII.2/3/2012 concerning Technical Guidelines for Monitoring the Results of Follow-up Audits of the Financial Audit Agency, p. 8.

decision on the LHP BPK that contains criminal elements that have been reported to the authorized agencies²². This inkraht court *decision* can be used to classify the follow-up in non-actionable status with valid reasons after going through the review and approval process of BPK Members. Similarly, if there are related parties who do not agree with the audit findings listed in the LHP, BPK may submit valid supporting documents in accordance with the provisions of the law to follow up on BPK's recommendations and are classified as recommendations that cannot be followed up with BPK's professional consideration and the approval of BPK Members.

In this stage, if the examined party objects to the audit findings that appear in the LHP BPK, then the solution used to resolve the audit through the follow-up mechanism of the audit results through the classification of the status of the audit or with legitimate reasons as stipulated in the in BPK Number 2 of 2017 concerning Monitoring the Implementation of Recommendations for Follow-up on Financial Audit Results.

c. Audit of BPK Audit Quality System by BPK of Other Countries

In state financial management, it is known as the Principle of Accountability which demands a form of accountability for the use and management of state finances. The implementation of the principle of accountability is outlined in the form of audits of Financial Statements conducted by independent external parties, such as Public Accounting Firms (KAP) and BPK in other countries²³. Audit by KAP of BPK's Financial Statements is carried out every year. The selection and appointment of KAPs who conduct an audit of BPK's Financial Statements is carried out by submitting proposals of 3 (three) KAPs from BPK and 3 (three) KAPs from the Ministry of Finance to the DPR which are selected through an auction process. The²⁴selected KAP conducts an audit of BPK's Financial Statements, using the State Financial Audit Standards as stipulated in Regulation BPK Number 1 of 2017. The results of the audit of the financial statements by the KAP are in the form of an opinion on the financial management of the BPK which is outlined in the LHP of the KAP. The opinion shows the level of transparency and accountability of BPK in carrying out state financial management and responsibilities.

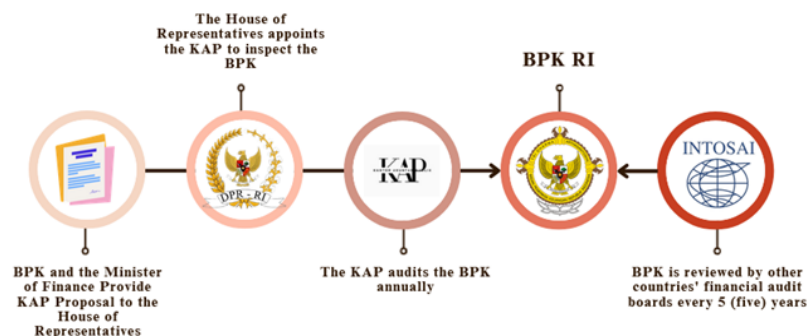
In addition to auditing the BPK's Financial Statements by the KAP every year, the BPK is also audited by the BPK of other countries that are members of the world financial audit organization. A review by the BPK in other countries is carried out to ensure that the quality control system of state financial management and responsibility audits is in accordance with the standard every 5 (five) years. The appointment of BPK in other countries is carried out by the BPK after consideration from the DPR.²⁵ In summary, the following are audits conducted by BPK in other countries.

22 Article 14 paragraph (1) of Law Number 15 of 2004 concerning the Audit of State Financial Management and Responsibility

23 Article 32 of Law Number 15 of 2006 concerning the Financial Audit Board

24 Article 3 of the Regulation of the Audit Board of the Financial Audit Agency Number 1 of 2016 concerning the Requirements of Public Accountants of Public Accounting Firms Conducting State Financial Audits

25 Article 33 of Law Number 15 of 2006 concerning the Financial Audit Board



INTOSAI is an international organization of world financial audit institutions (SAI) that compiles international auditing standards called *the International Standards of Supreme Audit Institutions* (ISSAI). ISSAI is used by BPK in other countries to conduct audits of the audit quality control system used by BPK in carrying out audit duties and functions. To produce audits that can encourage continuous improvement in order to provide value and benefits to society, INTOSAI developed *the Supreme Financial Audit Institution* (PMF SAI) Performance Measurement Framework. PMF SAI is a holistic measurement based on evidence to determine SAI's performance in providing value and benefits to society.²⁶ The PMF SAI is based on the framework of thinking that a SAI that can produce quality outputs must have adequate institutional capacity as the basis for the development of the organization's internal systems and the professional capacity of staff, especially auditors.

The results of BPK audits in other countries are in the form of *Peer Review* Reports that must be followed up by BPK. With the results of the PMF SAI assessment, BPK will be able to detect areas that need improvement and then become the basis for improvement in the strategic management process so that it is expected to increase capacity continuously. Audits of audit quality systems and institutions by BPK in other countries prove that BPK is part of a state institution that manages state finances which has also been tested for transparency and accountability.

5. Conclusion

The BPK is an independent institution that does not carry out government functions so that the LHP BPK is not an administrative decision (TUN Decision); therefore Administrative Court (PERATUN) does not have competence to examine, adjudicate, and decide disputes the LHP BPK. The substantive settlement of the LHP BPK can be carried out in 3 (three) ways, as follows: *First*, If problems arise in the implementation of the audit, it can be resolved through a mechanism for submitting responses to the concept of audit findings; *Second*, If problems arise after the LHP BPK is submitted to the competent institution, the completion of audit findings

²⁶ Nila, Eka Putri, Utilization of PMF SAI, A manifestation of BPK's spirit in providing value and benefits to the community. 2020. Examiner News. Edition 8 Volume III. Bureau of Public Relations and International Cooperation of BPK.

at the LHP BPK can be resolved through a follow-up mechanism for audit results and/or; *Third*, If problems arise related to the quality of the audit of state financial management and the responsibilities of the BPK, the problem is resolved through follow-up of *peer review results* by the Financial Audit Board of other countries.

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