

Code Ethics's Violation of the Republic of Indonesia Audit Board in the Perspective of Independence

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Abstract:

The Supreme Audit Agency of the Republic of Indonesia in implementing the constitutional mandate of the 1945 Constitution Article 23E paragraph (1) is specifically regulated through the Supreme Audit Agency Regulation Number 4 of 2018 concerning the Code of Ethics of the Supreme Audit Agency, the main problems in writing this journal are how the juridical review of the code of ethics of the Supreme Audit Agency of the Republic of Indonesia regarding Independence, how the form of sanctions given to members of the Supreme Audit Agency for violating the Code of Ethics regarding Independence. This research method is normative legal research, this research uses a statutory approach and a concept approach. From the findings in this journal, it is found that independence is needed in producing the Audit Report in accordance with the principles, principles and values of the Supreme Audit Agency, and the sanctions given to members of the Supreme Audit Agency are divided into three categories, the first is a written warning; the second is a sanction in the form of dismissal from membership of the Supreme Audit Agency; third, heavier sanctions for repeated offenses severe sanctions for repeated offenses.

Keywords: Independence, Audit Board, Code of Ethics.

INTRODUCTION

Indonesia in terms of trias politica power is divided into three, namely executive, judicial, and legislative powers.¹ The Audit Board of Indonesia is not included in the three but is a state institution that functions to investigate to determine control and ensure state requirements, the form of the Audit Board of Indonesia can be seen in the constitutional basis, namely the 1945 Constitution Article 23E.

Historically and Legally, the BPK previously after the transition of independence used the laws and regulations of the Instructie en Verdere Bepalingen voor de Algemene Rekenkamer (IAR) and Indische Compabile Wet (ICW) and both were legal bases inherited from the Dutch East Indies government that regulated the implementation of the duties of the Algemene Rekenkamer institution.² The institution was the Financial Audit Agency of the Dutch East Indies government. Indonesia in its history then formed Law Number 5 of 1973 which was later revoked by Law Number 15 of 2006 concerning the Financial Audit Agency.

The Audit Board in fulfilling its objectives and duties is formed by the state with its laws and regulations, which are then written down in more specific regulations in the form of two regulations, namely the Audit Board Regulation Number 4 of 2018 concerning the Audit Board Code of Ethics. While the Audit Board Regulation Number 5 of 2018 concerning the Audit Board Code of Ethics Honorary Council.³ This Code of Ethics is formed to be used as a guide to behaving in accordance with the principles, principles and values of the BPK which are of course based on the moral principles inherent in the BPK itself. The

¹ Nugroho, W. E. (2014). *Implementasi Trias Politica dalam Sistem Pemerintahan di Indonesia*. Gema Keadilan, 1(1), 69–69.

² Topan Yuniarto. (2023, February 2). Lembaga Badan Pemeriksa Keuangan. <https://Kompaspedia.Kompas.Id/Baca/Profil/Lembaga/Badan-Pemeriksa-Kuangan#:~:Text=Keduanya%20merupakan%20landasan%20hukum%20warisan%20pemerintah%20Hindia%20Belanda,November%201948%2C%20kantoor%20BPK%20dipindahkan%20ke%20Kota%20Yogyakarta.>

³ Anita Sinaga, N. (2020). *Kode Etik Sebagai Pedoman Pelaksanaan Profesi Hukum Yang Baik*. Jurnal Ilmiah Hukum Dirgantara, 10(2).

Audit Board Code of Ethics Honorary Council is a tool of the Audit Board tasked with enforcing the Code of Ethics.⁴

The impact of the Code of Ethics, especially Independence, provides trust, objectivity and accountability by the public to the Audit Board in carrying out its functions, public trust is the main foundation in the relationship between the community and institutions, organizations, or governments. When public trust is high, the community tends to support policies, obey the rules, and actively participate in social and political processes. Conversely, if public trust is low, the credibility of the institution can be threatened, and efforts to achieve common goals become more difficult. So according to Sumarni, the Code of Ethics has a positive impact through professional ethics in carrying out its functions.

METHOD

This type of research falls into the category of normative legal research, which focuses on analyzing applicable legal norms and re-evaluating existing laws and regulations. This process begins with an effort to find and identify applicable legal norms, legal principles, or legal doctrines in order to obtain solutions to the legal issues that are the main focus. Furthermore, prescriptive arguments are found that strengthen the statement, both in terms of theory and concept.⁵

This study adopts a legislative approach and a conceptual approach. The reason for choosing both methods is to be able to analyze the issues described in this study appropriately, as well as to obtain conclusions that can be scientifically accounted for. The application of the legislative approach is seen in research that examines the norms contained in the legal regulations related to the Audit Board's Code of Ethics. The study was also conducted on regulations related to the Audit Board's laws and regulations and its code of ethics to seek legal

⁴ Amsar Amsar, Jaluanto Sunu Punjul Tyoso, & Siti Mardiyah. (2022). *Analisis Independensi, Interdependensi Tugas, Kode Etik, Soft skills, dan Pengungkapan kecurangan (Studi Pada Aparatur Sipil Negara yang bertugas sebagai Auditor di Kota Semarang)*. Jurnal Ilmiah Manajemen, Ekonomi Dan Bisnis, 1(3).

⁵ Peter Mahmud Marzuki. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media.

understanding based on logic and the essence of the law in accordance with related regulations and regulations. Through this research, the principles, foundations, and values will be revealed which will then be understood and can be concluded regarding the core problems raised in this study.⁶

The method of collecting and processing legal materials can be carried out through literature study activities by collecting legal sources that are relevant to the writing of this research, namely in the realm of state financial law, laws and regulations, and secondary supporting legal materials. In analyzing legal materials, the approach that will be applied in this study is the deductive analysis method. By definition, deductive is describing information related to the main problem, then drawing conclusions into specific concluding sentences. This type of research falls into the category of normative legal research, which focuses on analyzing applicable legal norms and re-evaluating existing laws and regulations. This process begins with an effort to find and identify applicable legal norms, legal principles, or legal doctrines in order to obtain solutions to the legal issues that are the main focus. Furthermore, prescriptive arguments are found that strengthen the statement, both in terms of theory and concept.⁷

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⁶ *Ibid.*

⁷ Peter Mahmud Marzuki. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media.

foundations, and values will be revealed which will then be understood and can be concluded regarding the core problems raised in this study.⁸

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DISCUSSION

The Audit Board can be found in the constitution of the Republic of Indonesia, the constitution of the State, namely the 1945 Constitution, is written in Article 23E Paragraph (1) paraphrased that the Audit Board has a role and purpose to assess the management and responsibility in the management of state finances which are independent and autonomous. Article 23G paraphrases that additional regulations related to the Audit Board are regulated by Law.

The Audit Board has authority through the Law, this is classified as attribution. Attribution authority is one of three sources of authority. According to Phillipus, attribution authority is generally obtained through the division of state power stipulated by law.⁹ Authority, according to the meaning of language, can be interpreted as the right and power possessed to carry out an action. The Audit Board which is formed based on the constitution has the authority to carry out audits and is responsible for state finances.

Correlation of Independence with the code of ethics of the financial audit body, according to explained Independence can be interpreted as an attitude and behavior in carrying out the audit process that is not biased towards any party

⁸ *Ibid.*

⁹ Hadjon, P. (2022). *Pengantar Hukum Administrasi indonesia*. Gadjah Mada University Press.

and is not influenced by other parties.¹⁰ In terms of language, free and independent are synonymous with independence, from Astrina's writing it can be obtained that the reason why the characteristics, principles, values needed by members of the Financial Audit Board are needed from various characteristics, one of which is independence.

Law Number 5/1973 was enacted on the grounds of the importance of establishing the Audit Board in its position and role in accordance with the constitutional mandate. This law regulates the duties, responsibilities, and rights of the financial auditor. The location, format, structure, and membership of the financial audit institution, which were subsequently revoked and no longer effective in this regulation.¹¹ Currently, the regulation that is still in effect is Law No. 15 of 2006 concerning the Audit Board. This law was enacted by considering that Law No. 5 of 1973 was no longer in line with the progress of the government system, both at the central and regional levels. The difference with the previous regulation lies in the scope of its duties and authorities, in Law No. 15/2006 Article 6 Paragraph (1) the BPK is paraphrased as having the duty to assess the management and accountability of state finances carried out by the Central Government, Regional Governments, State Institutions, Bank Indonesia, State-Owned Companies, Public Service Institutions, Regional-Owned Companies, and other organizations that manage state finances. Article 6 Paragraph (2) describes the methods regulated by law in carrying out audits by the Audit Board in accordance with recognized and clearly defined standard principles.

Law No. 15/2004 is used as a reference or audit standard. Law No. 15/2004 Article 1 Paragraph (8) is paraphrased that the audit standard has the meaning of a reference in carrying out audits of state financial management and accountability. This includes general standards, audit implementation

¹⁰ Astrina, F., Ghazali, R., Darmayanti, D., Ningsih, N. H., & Mukholih, J. (2022). *Pengaruh Kompetensi, Independensi dan Objektivitas terhadap Kualitas Audit (Studi Empiris pada Badan Pemeriksa Keuangan (BPK) RI Perwakilan Provinsi Sumatera Selatan)*. Jurnal Media Wahana Ekonomika, 18(4).

¹¹ Ferdiansyah Putra Manggala, "Data Pribadi Nasabah Pada Penyedia Jasa Pinjaman Online," *Legal Spirit* 8, no. 2 (1 Agustus 2024): 269–82, <https://doi.org/10.31328/lv.v8i2.5322>.

procedures, and reporting guidelines that must be followed by the Audit Board and/or auditors. This standard is present and provides a basis for the Audit Board's work program to be accounted for normatively, as well as an impact that can be felt by the community in the form of increasing people's welfare, with the note that the Audit Board's implementing members in carrying out their functions, especially the examiners, emphasize fundamental principles such as honesty, independence, and professionalism.¹²

Law No. 1/2004 determines the normative definition of state treasury, as well as its scope. Regulations are also written to support the activities of regional governments to the central government in carrying out their functions. After knowing the legal basis for how the Audit Board functions and benefits the state through its objectives, the Audit Board also issued special supporting regulations, namely Audit Board Regulation Number 4 of 2018 concerning the Audit Board Code of Ethics. Audit Board Regulation Number 4 of 2018 Article 1 Paragraph (9) is paraphrased The definition of independence is the basic principle of the BPK which reflects attitudes and behavior in carrying out audits without bias towards any party and is not influenced by any party. This aspect is also known in the BPK Core Values, which include, among others, independence, integrity, and professionalism.

Independence is very important in carrying out financial audit activities. This is stated in Law No. 15/2004 Article 6 paraphrased that the Audit Board in its implementation is carried out freely and independently. The duties and authorities are regulated in PBPB No. 4/2024. The regulation categorizes the scope of members in carrying out their functions classified based on member numbers starting from Member I to Member VII.¹³ The Audit Board in carrying

¹² Sipayung, B., & Wahyudi, A. (2022). *Penerapan Good Governance dalam Rangka Meningkatkan Kualitas Pelayanan Publik yang Berintegritas di Lingkungan Badan Pemeriksa Keuangan*. Jurnal Pendidikan Tambusai, 6(2).

¹³ Hirsanuddin Hirsanuddin dan Dwi Martini, "Good Corporate Governance Principles in Islamic Banking: A Legal Perspective on the Integration of TARIF Values," *Journal of Indonesian Legal Studies* 8, no. 2 (14 November 2023), <https://doi.org/10.15294/jils.v8i2.70784>.

out its functions produces an Audit Result Report, the Report is an official document produced after the Audit Board conducts an audit of the management and accountability of state finances by regional and central government agencies, state-owned/regional companies, or institutions connected.

The Audit Result Report is normatively written in Law 15/2004 Article 16-20, it is written that the form of the audit result report has and contains opinions, formulated findings, conclusions, and suggestions, as well as the preparation of the audit result report. This is done to meet certain objectives accompanied by a response from the government official responsible for the results of the audit. It must be understood together that the audit activity can certainly produce a report containing state secrets or criminal elements, thus in its delivery if it follows from PB DPR and BPK No. 1/2018 Article 5 Paragraph (7) it can be delivered in a closed room (not open to the public) if it contains elements of one of the conditions above.

Looking at PBPK No. 1/2017 it is written that the competence of examiners or auditors is a must for professionals in carrying out audit tasks, this is supported by the Code of Ethics guidelines for members of the Audit Board which are binding and must be adhered to in carrying out state duties in accordance with their profession, in this case members of the Audit Board. This Code of Ethics is important because this regulation is the basis for public trust in the integrity and professionalism of the profession in carrying out its functions. If in its implementation members do not comply with the Code of Ethics, it will certainly have an impact on the quality of the reports produced and of course the question will be what kind of sanctions will be given to members.¹⁴ So from the explanation above, it has been found legally regarding independence and its correlation with the audit report that will be made by members of the Audit Board and the importance of independence to the quality of the report.

¹⁴ Gde Made Swardhana dan Seguito Monteiro, "Legal Policy of State Financial Losses Arrangement In A State-Owned Enterprise," *BESTUUR* 11, no. 1 (20 Juni 2023): 171, <https://doi.org/10.20961/bestuur.v11i1.61326>.

Doctrinally, according to Suparman Marzuki, the Code of Ethics of the Legal Profession serves as a guide for members of the profession in carrying out their duties and obligations in accordance with the principles agreed upon in this profession. The Code of Ethics also plays a role in maintaining the integrity of the legal profession and ensuring quality service to the community.¹⁵ According to Suhrawardi, a code of ethics is a set of norms created and agreed upon by a professional group, which serves as a guide for its members on the behavior that should be carried out, and ensures the moral quality of the profession in the eyes of the community.¹⁶

Through this understanding and explanation, it can be concluded that a code of ethics functions as a behavioral guideline established by a profession to ensure that its members act in accordance with the expected moral and professional standards, as well as maintaining public trust in the profession.¹⁷

Normatively written in PBPK No. 5/2018 concerning the Honorary Council of the Code of Ethics of the Audit Board of Indonesia. This regulation is written to implement the requirements of Law Number 15/2006 concerning the Audit Board of Indonesia Article 30.¹⁸ The regulation states the duties and authorities of the Honorary Council of the Code of Ethics (hereinafter referred to as MKKE) which aims to implement the Code of Ethics. Before imposing sanctions, MKKE will first hold a hearing and meeting. MKKE is supported by the clerk, the clerk's secretariat, and the team that handles the code of ethics.¹⁹

The procedures described above are based on reports or indications of violations of the code of ethics committed by members of the financial audit institution. PBPK Number 5/2018 Article 14 states that MKKE has the authority to

¹⁵ Marzuki, S. (2017). *Etika dan Kode Etik Profesi Hukum* (1st ed., Vol. 1). FH UII Press.

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¹⁷ Rahadiyan Veda Mahardika, et.al., *Kedudukan Subyek Hukum Ditinjau Dari Hak Keperdataan (Refleksi: Terjadinya Tumpang Tindih Lahan Hak Guna Usaha)*, (Jember: UM Jember Press, 2022), h.

¹⁸ Angel Nikho, Cindy Sekarwati, Zain Irawan, *Penegakan hukum di Indonesia: Peran Pemerintah dalam Mewujudkannya*, Surakarta, Universitas Sebelas Maret, Vol. 2., No. 6., 2023, h. 416.

¹⁹ Mohammad Rafi Al Farizy, et.al., *LPI Dalam Lingkaran Pertanggungjawaban Kerugian Negara*. Yogyakarta: Bintang Pustaka Madani, 2023), h.

summon/request information data from the reporter, reported party, witnesses and experts. Furthermore, decide whether or not there is a violation of the code of ethics. If a violation is found, the form and type of sanctions imposed and the delivery of the decision will be determined.²⁰

Context if a member of the financial audit body is found to have violated the code of ethics regarding independence, then based on PBPB Number 4/2018 concerning the Code of Ethics. Violation of Obligations and Prohibitions in the Code of Ethics Requirements regarding obligations and prohibitions are regulated in Article 5, which includes obligations related to independence.²¹ First, maintaining the dignity, honor, image, and credibility of the Financial Audit Board (BPK); second, avoiding conflicts of interest (Article 5 Paragraph (1) Letter i); third, demonstrating an independent attitude when making decisions (Article 5 Paragraph (1) Letter j). There are several prohibitions related to independence. First, it is prohibited to carry out other work or professions that can affect independence (Article 5 Paragraph (2) Letter k). Second, it is prohibited to take advantage of a person's position, status, or role for personal or group gain (Article 5 Paragraph (2) Letter l). Third, it is prohibited to give orders or influence changes in audit results so that they are not objective (Article 5 Paragraph (2) Letter p).

The types of sanctions given based on Article 7, the sanctions imposed on members of the Audit Board are first in the form of a Written Warning (Imposed if violations of responsibilities or prohibitions cause a negative impact on the unit carrying out audit duties; second Dismissal from membership of the Audit Board; third, the imposition of more severe sanctions for repeated violations. If BPK members are not independent (for example, showing bias, being involved

²⁰ Dhifa Nadhira Syadzwina & Esti Setyowati, *Peran Notaris, Restrukturisasi, Perusahaan Non Badan Hukum*, Jurnal Ilmu Kenotariatan, Vol. 1, No. 2, (2020), h. 1-18.

²¹ Ayudya Rizqi Rachmawati, Ajeng Pramesthy Kusuma, dan Ferdiansyah Putra Manggala, "Kewajiban Hukum Perusahaan Tambang Dalam Penyediaan Fasilitas Smelter Sebagai Upaya Mendukung Program Hilirisasi," *INICIO LEGIS* 5, no. 1 (27 Juni 2024): 65–75, <https://doi.org/10.21107/il.v5i1.25899>.

in a conflict of interest, or taking actions that violate objectivity), then the sanctions that can be imposed include the first sanction and the second sanction

The process of imposing sanctions is carried out through identifying violations and being examined by the Code of Ethics Honorary Council and examining the facts and evidence of violations, including the impact of the member's actions. If the facts and evidence of violations are appropriate, sanctions can be determined and submitted to the MKKE and received by the Audit Board for information. So from the explanation above, it can be concluded that members of the Audit Board if they violate the Code of Ethics can be seen normatively in PBPK No. 4/2018 concerning the Code of Ethics Article 7. The imposition of sanctions is also divided into three categories. The Audit Board can be found in the constitution of the Republic of Indonesia, the constitution of the State, namely the 1945 Constitution, is written in Article 23E Paragraph (1) paraphrased that the Audit Board has a role and purpose to assess the management and responsibility in the management of state finances which are independent and autonomous. Article 23G paraphrases that additional regulations related to the Audit Board are regulated by Law.

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The procedures described above are based on reports or indications of violations of the code of ethics committed by members of the financial audit institution. PBPK Number 5/2018 Article 14 states that MKKE has the authority to summon/request information data from the reporter, reported party, witnesses and experts. Furthermore, decide whether or not there is a violation of the code

²⁵ Marzuki, S. (2017). *Etika dan Kode Etik Profesi Hukum* (1st ed., Vol. 1). FH UII Press.

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²⁷ Rahadiyan Veda Mahardika, et.al., *Kedudukan Subyek Hukum Ditinjau Dari Hak Keperdataan (Refleksi: Terjadinya Tumpang Tindih Lahan Hak Guna Usaha)*, (Jember: UM Jember Press, 2022), h.

²⁸ Angel Nikho, Cindy Sekarwati, Zain Irawan, *Penegakan hukum di Indonesia: Peran Pemerintah dalam Mewujudkannya*, Surakarta, Universitas Sebelas Maret, Vol. 2., No. 6., 2023, h. 416.

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³⁰ Dhifa Nadhira Syadzwina & Esti Setyowati, *Peran Notaris, Restrukturisasi, Perusahaan Non Badan Hukum*, Jurnal Ilmu Kenotariatan, Vol. 1, No. 2, (2020), h. 1-18.

³¹ Stefan Koos, "Civil Law, Conflict of Laws, and Extraterritoriality in the European Supply Chain Due Diligence Law," *Hasanuddin Law Review* 10, no. 2 (19 Juni 2024): 144, <https://doi.org/10.20956/halrev.v10i2.5535>.

The process of imposing sanctions is carried out through identifying violations and being examined by the Code of Ethics Honorary Council and examining the facts and evidence of violations, including the impact of the member's actions. If the facts and evidence of violations are appropriate, sanctions can be determined and submitted to the MKKE and received by the Audit Board for information. So from the explanation above, it can be concluded that members of the Audit Board if they violate the Code of Ethics can be seen normatively in PBPK No. 4/2018 concerning the Code of Ethics Article 7. The imposition of sanctions is also divided into three categories

CONCLUSION

Independence is needed in producing Audit Result Reports in accordance with the principles, principles and values of the Audit Board. The form of sanctions given to members of the Audit Board for those who violate the code of ethics regarding independence, the imposition of sanctions on members of the Audit Board is divided into three categories based on PBPK number 4/2018, the first is a written warning sanction, the second is a sanction in the form of dismissal from membership of the Audit Board, the third is a more severe sanction for repeated violations.

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