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Legal Issues Against the Enforcement of Court Determination Granting Objections of Parties in Good F

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Legal Issues Against the Enforcement of Court Determination Granting Objections of Parties in Good Faith

Abstract

The purpose of this research is to investigate the legal framework allowing the finance minister to enforce a court decision that approves a good faith third-party objection request, as well as to explore the legal implications and recourse if the finance minister fails to implement the court decision. This study is prompted by Supreme Court Regulation Number 2 of 2022, which elaborates on Article 19 of Law No. 31 of 1999. The significance of this research lies in providing legal certainty regarding the enforcement of court decisions granting good faith third-party objection requests. The research employs the normative legal research method and offers a new perspective by examining the implementation phase of objection application settlements. The findings indicate that Perma No. 2 of 2022 cannot be enforced without a regulation as a legal basis for the finance minister to govern the procedures for executing court decisions granting objections. Furthermore, the prohibition of state property confiscation leaves good faith third parties without legal protection, as there is no certainty about the legal consequences should the finance minister fail to implement the stipulation or court decision granting the objection of the good faith third party, and there are no available remedies for the Good Faith Third Party. Such Perma can not be effectively enforced without technical regulation on the procedure to execute the court verdict. Hence, it is recommended that the ministry of finance needs to issue regulation concerning the execution of court verdict providing legal certainty and protection for good faith third party.

Keywords: good faith; objection; third party; legal protection; confiscation of goods

1. INTRODUCTION

The existence of a corruption crime law has the purpose of returning state losses as a result of corruption crimes, so to ensure the return of state losses that have been harmed as a result of corruption crimes, anticipatory steps are needed by confiscation at the investigation and prosecution stage and/or confiscation in court through a court decision.¹ The existence of objects related to a criminal case is very necessary for proof.² In this regard, this study focuses on the legal protection for the good faith third party in corruption cases. This has a significance to the protection of human rights and providing legal certainty.

Laws and regulations provide rights for third parties who feel aggrieved because their goods are confiscated for the state in cases of corruption, this is regulated in Article 19 of Law Number 31 of 1999 *jo.* Law Number 20 of 2001 (hereinafter abbreviated as the Corruption Law). However, the article has not provided detailed provisions related to the procedure for the implementation of objections by a third party in good faith³, so the Supreme Court issued Supreme Court Regulation Number 2 of 2022 concerning Procedures for Resolving Third-Party Objections in Good Faith Against the Decision on the Confiscation of Goods Not Owned by the Defendant in Corruption Cases (hereinafter abbreviated as Supreme Court Regulation Number 2 of 2022). Supreme Court Regulation Number 2 of 2022 only regulates the procedures for resolving objections of third parties in good faith or only related to the application of Article 19 of the Corruption Law, namely if the objection application is granted, the minister of finance must hand over the canceled state loot to a third party in good faith to implement the determination or decision of the court. Supreme Court Regulation Number 2 of 2022 does not regulate the submission procedures or procedures that need to be carried out by the minister of finance to carry out a determination or court decision granting an objection. This tends to infringe the rights of the third party having a good faith.

There are several previous studies (*literature review*) that have a similar study topic to this writing, such as those written by Tri Novianti and Ricky Fadila who conclude that a third party in good faith has received legal protection as long as he can prove that the loot belongs to him, and there is a procedure for filing objections in Articles 3 to 8 of Supreme Court Regulation Number 2 of 2022, and for legal remedies contained in Articles 15 to 20 of Supreme Court Regulation Number 2 of 2022.⁴ Bernadus Andika Bayangkara, et al also described the process of objections of third parties, such as submission, the cost of submitting objections, legal remedies, and the submission of the memory of cassation in Supreme Court Regulation Number 2 of 2022, which then concluded based on Lawrence M. Friedman's theory of legal protection for the community in Forest Hill housing (third party) for the confiscation of land

¹ Melkianus Ndaomanu, "Claims for the Rights of Third Parties in Good Faith Against Confiscation of Goods in Corruption Criminal Decisions," *Unnes Law Journal* 9, no. 2 (31 Oktober 2023): 357–76, hlm. 360-361. <https://doi.org/10.15294/ulj.v9i2.75565>.

² Fransiska Novita Eleanora, "Implementation of State Confiscated Objects Storage Houses (Rupbasan) By Law Number 8 of 1981 Concerning Law Board Law Of Criminal Events (KUHP)," *Tadulako Law Review* 4, no. 1 (Juni 2019): 1–14, <http://jurnal.untad.ac.id/index.php/TLR>.

³ Consideration of letter c of Supreme Court Regulation Number 2 of 2022.

⁴ Tri Novianti dan Ricky Fadila, "Perlindungan Hukum Pihak Ketiga Atas Keberatan Putusan Pengadilan Terhadap Putusan Perampasan Barang Bukan Kepunyaan Terdakwa Dalam Perkara Tindak Pidana Korupsi," *PETITA* 4, no. 2 (Desember 2022): 218–321, <https://doi.org/https://doi.org/10.33373/pta.v4i2.4973>.

assets by the state in the case of corruption crimes of PT. ASABRI.⁵ Muhammad Nur Amin and Liza Deshaini who elaborated on efforts to resist assets confiscated by the state in corruption cases. The study concluded that assets confiscated for the state can be objected to by a third party, but the defendant himself in this case gets an injustice because Supreme Court Regulation Number 2 of 2022 only gives the right for a third party in good faith to file an objection.⁶ Thoses research merely focused more on the objection and submission procedures, while this study analyzes the implementation of court decisions for the good faith third party and its legal consequences if not executed. Hence, there has been no research that has deeply analyzed the implementation of court decisions that grant objections of third parties in good faith and legal implications if the decision is not implemented by the minister of finance.

The present study aimed at analyzing twofolds legal issues; to find out the legal basis for the minister of finance to implement a determination or court decision granting the application for objection of a Third Party in Good Faith in Supreme Court Regulation Number 2 of 2022 as a form of legal protection against a Third Party in Good Faith in a corruption case; and to find out the legal consequences that arise and the efforts that can be made by a third party in good faith if the minister of finance does not implement a determination or court decision that grants the objection of a third party in good faith.

2. METHOD

The study utilizes a normative legal research method, drawing from secondary data including primary, secondary, and tertiary legal materials obtained through literature and document studies. The research employs a conceptual and legislative approach, focusing on Supreme Court Regulation Number 2 of 2022, which pertains to the Resolution of Third-Party Objections in Good Faith Against the Confiscation of Unowned Goods in Corruption Cases. Qualitative data analysis is employed for examining the data.

3. RESULTS AND DISCUSSION

3.1. Finding the Legal Basis and its Flaw

It is stated in Procedure Code that goods subject to confiscation can be returned to the person from whom the object was confiscated or to the person who has the most rights, confiscated to be destroyed so that it can no longer be used, confiscated for the state, or reused in other cases. If the evidence in a court decision is declared confiscated for the state and the court decision has permanent legal force, then the evidence is converted into State Spoils⁷. In this context, state loot is state property that comes from evidence that is determined to be confiscated for the state based on a court decision that has obtained permanent legal force, or goods that are declared confiscated for the state based on a judge's determination and/or other goods used to

⁵ Bernadus Andika Bayangkara, Aartje Tehupeior, dan Diana RWNapitupulu, "Analisis Yuridis Perlindungan Hukum Bagi Masyarakat di Perumahan Forest Hill (Pihak ketiga) Atas Perampasan Asset Tanah Oleh Negara Perkara Tindak Pidana Korupsi PT. ASABRI," *Action Research Literate* 8, no. 5 (2024), <https://doi.org/https://doi.org/10.46799/arl.v8i5.359>.

⁶ Liza Deshaini dan Muhammad Nur Amin, "Perlawanan Terhadap Perampasan Aset Yang Disita Dalam Perkara Tindak Pidana Korupsi," *Lex Librum : Jurnal Ilmu Hukum* 9, no. 2 (20 Juni 2020), <https://doi.org/10.46839/lljih.v9i2.767>.

⁷ Article 45 paragraph (4), Article 46 paragraph (1), and Article 46 paragraph (2) of Law Number 8 of 1981 concerning the Criminal Procedure Law. Article 1 number 7 of the Attorney General's Regulation Number: PER-013/A/JA/06/2014.

10 pay fines or compensation in criminal cases⁸. State-owned goods themselves are all goods purchased or obtained at the expense of the State Revenue and Expenditure Budget (APBN) or derived from other legitimate acquisitions.⁹ In addition, state loot also includes items taken for the state executed for the public, auctioned for the state, handed over to designated institutions for use and kept for evidence in other cases.¹⁰

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11 The management of state loot refers to Article 104 of Government Regulation Number 27 of 2014 which states that the management of certain state assets sourced from other legitimate acquisitions is regulated separately by the regulation of the minister of finance. Certain state assets are of course included in state loot. The minister of finance then issues Regulation of the Minister of Finance Number 145/PMK.06/2021 *jo*. Regulation of the Minister of Finance Number 162 of 2023 focusing on the management of state loot. Unfortunately, no article explains and provides a basis for the authority for the minister of finance to carry out a determination or court decision granting a third-party objection application in good faith. It is further explained that the Ministry of Finance implements the determination or decision within 30 (thirty) days. After the determination is implemented, the Minister of Finance reports the implementation of the decision to be submitted to the prosecutor/military prosecutor/high military prosecutor within 5 (five) days from the implementation of the decision.

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6 The Ministry of Finance must also carry out a court determination that grants the objection of a third party in good faith. According to Article 12 paragraph (3) letter c of Supreme Court Regulation Number 2 of 2022, if the panel of judges grants an objection to the confiscated goods that have been executed or confiscated for destruction, then the determination states: ordering the State c.q. the minister of finance to:

1. Submit the confiscated goods to the applicant or the applicants;
2. Pay losses to the applicant or the applicants in the amount of the auction value of the goods in question, if the object of the confiscated goods has been auctioned;
3. If it cannot be handed over in the form of goods or goods that have been destroyed, it will be replaced with payment of a sum of money for the goods that have been confiscated or destroyed based on the calculation of the Public Valuation Service Office (*Kantor Jasa Penilai Publik*).

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1 The above explanation shows that there needs to be a clearer regulation as a form of legal certainty for the minister of finance to exercise his authority to carry out a determination or court decision that grants the objection of a third party in good faith. There is no specific legal norm providing for the Ministry of Finance to implement the determination or decision of the court as a guideline or basis. Supreme Court Regulation Number 2 of 2022 in this context only provides guidelines for the minister of finance related to the implementation of a determination or court decision that grants a third-party objection in good faith. The minister of finance should hand over state loot or the object of the objection to a third party in good faith, but there is no clear measure of how to submit the object of the objection. Therefore, it is difficult to assest

⁸ Article 1 number 4 of the Minister of Finance Regulation Number 199/PMK.06/2022.

⁹ Article 1 number 10 of Law Number 1 of 2004.

¹⁰ Sarah Azizah dan ; Pujiyono, "The Home Storage Functions of State Confiscated Objects in the Criminal Justice System," t.t., hlm. 499. <https://doi.org/10.47814/ijssrr.v6i4.1186>.

whether the guidelines have been implemented correctly or not. The procedure for the implementation of the minister of finance in carrying out a determination or court that grants a request for objection from a third party in good faith is a manifestation of a dual function in the implementation of state administrative law, as well as a form of legal certainty to provide legal protection to a third party in good faith.

This is also related to the division of goods or objects as contained in Articles 503, 504, and 505 of the Civil Code (KUHPerdata), namely tangible and intangible goods, movable and immovable goods, as well as movable goods that can be spent because they are used and those that cannot be spent. However, in Article 1 number 9 of Supreme Court Regulation Number 2 of 2022, goods are divided into: movable goods; immobility; tangible or intangible; including money. The distribution of the goods is related to the difference in the way they are delivered. Article 612 of the Civil Code stipulates that the delivery of movable goods can be carried out by real delivery, while Article 616 of the Civil Code, it is stated that the delivery of immovable objects must be done by changing the name on the general register.¹¹

The lack of procedure for executing the asset confiscation from the good faith third party leads to the infringement of human right, legal certainty, and legal protection. In this context, legal protection for the community must be manifested in the form of legal certainty.¹² The purpose of obtaining legal protection is to realize order and tranquility among the basic values of law, namely the certainty, usefulness, and justice of the law that is aspired to can be achieved together.¹³ Gustav Radbruch defines legal certainty as a state in which law can be enforced as a rule. The feature of legal certainty can only be present when the law is involved, especially regarding the language that has been documented in the writing of the law. The idea of legal certainty usually requires a series of tangible laws and regulations that accommodate its implementation. To ensure consistent implementation, legal personnel must be adequately supported while carrying out their duties.¹⁴

Legal certainty requires that the law can function as a regulation that must be obeyed, of course, not only on how the regulation is implemented, but also on how the norms or content materials in the regulation contain the basic principles of law. Laws and regulations as a written norm (law), in the context of the state of Indonesia law, are the basis for state administration and as a guideline.¹⁵ Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. Legal certainty means that every material contained in laws and regulations must be able to create order in society through the guarantee of legal certainty.¹⁶ According to Pamadi Sakardi, there are three elements to realize legal

¹¹ Dwi Dasa Suryantoro, "Eksistensi Hak Kebendaan Dalam Perspektif Hukum Perdata BW," *Legal Studies Jurnal* 3, no. 1 (Februari 2023): 19–35, hlm. 32.

¹² Miftakhul Irfan, "Perlindungan hukum pelaku usaha komoditi pertanian melalui penguatan anggaran dalam rangka mencegah krisis pangan," *Jurnal Cakrawala Hukum* 12, no. 2 (5 September 2021): 187–94, <https://doi.org/10.26905/idjch.v12i2.5809>.

¹³ Hana Aulia Putri, "Perlindungan Hukum terhadap Hak Anak Korban Pemerkosaan dalam Lingkungan Keluarga," *Jurnal Lex Renaissance* 6, no. 1 (1 Januari 2021), hlm. 14. <https://doi.org/10.20885/JLR.vol6.iss1.art2>.

¹⁴ Try Widiyono dan Zubair Kasem Khan, "Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law," *Law Reform*, vol. 19, t.t., hlm. 133.

¹⁵ *Ibid.*, hlm. 134.

¹⁶ Nurwanti Setiawan dan Nynda Fatmawati Octarina, "Legal Uncertainty Over Notary Protocols in Law Number 43 of 2009," *Journal of Law and Legal Reform* 3, no. 4 (31 Oktober 2022): 543–66, hlm. 551. <https://doi.org/10.15294/jllr.v3i4.58654>.

certainty, namely laws and regulations, institutions, and legal institutions that are manifested in the judge's decision.¹⁷

Legal certainty requires that the law be clear enough for those affected to regulate their behaviour and avoid the arbitrary use of public power. It has become a fundamental principle in determining the boundaries of individual freedom and state authority. Legal certainty is essential in setting normative expectations and providing a framework for social interaction, thus defining individual rights and political power in contemporary society. One of the basic principles of the legal system is legal certainty with clear legal guidelines. This means that the law must be specific enough so that an individual, with proper guidance if necessary, can anticipate the impact that may arise from a particular action. The term "obvious" refers to the absence of ambiguity, allowing for a logical and consistent set of rules that do not contradict each other or create conflicts. When the rules are unclear and subject to multiple interpretations, conflicts can arise in the form of disputes, weakening or distorting the norms in question. Legal certainty is achieved when regulations can be enforced by legal principles and formal guideline criteria.¹⁸

3.2. Finding Legal Consequences and Providing Legal Efforts

The lack of procedure raises legal consequence as seen in the Supreme Court Regulation; 1) the determination is carried out without going through a civil lawsuit again; 2) an appeal can only be made 1 (one) time; and 3) against cassation and/or determination of an application for an objection that has permanent legal force, it cannot be submitted for review. It is also supported by Article 50 of Law Number 1 of 2004 concerning the State Treasury which states that state property cannot be confiscated by any party. This raises a problem in which Supreme Court Regulation does not regulate coercive efforts or legal remedies against loot objects that have become state property if the minister of finance does not carry out a court determination to hand over the loot object to the objector. Thus, the court does not have the authority to confiscate the object of the objection from a third party in good faith. Meanwhile, when viewed from other laws and regulations, this is also related to Article 2 letters d and e of Law Number 5 of 1986 *jo.* Law Number 9 of 2004 *jo.* Law Number 51 of 2009 (hereinafter abbreviated as the State Administrative Court Law) which states "Not included in the meaning of State Administrative Decisions according to this Law: d. State Administrative Decisions issued based on the provisions of the Criminal Code and the Criminal Procedure Code or other laws and regulations of a criminal law nature; e. State Administrative Decision issued based on the results of the examination of the judicial body based on the provisions of the applicable laws and regulations".

There is also jurisprudence of the Supreme Court Decision (cassation level decision) Number 3132 K/Pid.Sus/2022 which was read on August 3, 2022 with Widyawati Wihardjo as the Applicant, while the Central Jakarta District Attorney's Office as the Respondent. The legal

¹⁷ Gloria Damaiyanti Sidauruk, "Kepastian Hukum Putusan Komisi Pengawas Persaingan Usaha Dalam Penegakan Hukum Persaingan Usaha," *Jurnal Lex Renaissance* 6, no. 1 (1 Januari 2021), hlm. 143. <https://doi.org/10.20885/JLR.vol6.iss1.art10>.

¹⁸ Nurwanty Setiawan dan Nynda Fatmawati Octarina, *Loc.Cit.*

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considerations of the decision state that if the application for objection at the cassation level is rejected by the panel of judges, then there is a legal remedy that can be taken by the objector, namely by filing a civil lawsuit against the cassation respondent to determine the lawful ownership of the object of objection or evidence that is declared confiscated for the state. In this context, there is no legal certainty regarding what legal consequences will occur if the minister of finance does not implement the determination or court decision that grants the application for the objection of a third party in good faith. The above also shows that a third party in good faith does not have an effort to confiscate its goods if the minister of finance does not implement a determination or court decision granting the objection, nor an effort to bring the matter to the realm of the state administrative court as stated in the State Administrative Court Law. In addition, the party also has no effort to file a civil lawsuit, unless the objection application is rejected. Moreover, there is no review of the determination or decision that has permanent legal force. Looking at the above problems, this can cause uncertainty and legal void caused by the absence of a legal consequence for a third party in good faith to make certain efforts if the minister of finance does not implement the determination or court decision that grants the objection.

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According to Sudikno Mertokusumo, the legal vacuum is the impact of the existence of positive law where the law will always lag behind the reality that occurs in society. Positive law concerning social development must be oriented to two aspects, namely trying to pursue the development of social reality and trying to create positive legal rules that are anticipatory to social development. Of these two aspects, what is possible is an effort to pursue the development of social reality. This can be done if there are legal provisions that are responsive and "flexible" in facing the times.¹⁹

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The above problem intersects with human rights related to the right to property, which in the Indonesia constitution itself has guaranteed this, precisely in Article 28G paragraph (1) of the 1945 Constitution, which states that, "Everyone has the right to the protection of himself, family, honour, dignity, and property under his power, as well as the right to a sense of security and protection from the threat of fear to do or not to do something which is a right foundation." Property rights are meant as a person's ability to own, buy, sell, and use their property in a market economy.²⁰ Property or wealth is a fundamental right based on a super positive law of nature. Locke argued that the basis for self-defence and obtaining life is the goods of life, prepared by God in the form of "common possessions." What we need to do is bring these "common goods" into the sphere of individuals personally, "to be beneficial to a particular person."²¹ Article 17 of the Declaration of Human and Civil Rights states that property is a

¹⁹ I Komang Gede Indrawan dan I Gede Agus Kurniawan, "The Legal Protection for Folk Songs from Unknown Origin: Orientation and Formulation in the Perspective of Legal Cybernetics," *SASI* 29, no. 4 (30 Oktober 2023): 755–64, hlm. 760-761. <https://doi.org/10.47268/sasi.v29i4.1722>.

²⁰ Waspih Waspih dkk., "How Economic Rights for SMEs Protected? Analysis of National and International Property Rights Law," *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (31 Maret 2020): 71–88, hlm. 75. <https://doi.org/10.15294/ijals.v2i1.35285>.

²¹ Zixuan Jiang, "Rights and Property Rights: A Reflection Based on the Perspective of Young Marx," *Open Journal of Social Sciences* 10, no. 11 (2022): 213–24, hlm. 215. <https://doi.org/10.4236/jss.2022.1011015>.

sacred and inalienable right, and that no person shall be deprived of it unless public needs, as prescribed by law, expressly require it, and fair compensation has been made beforehand.²²

8 Other than that, a country is said to be a democratic country if it fulfils two democratic principles, namely the recognition and protection of human rights. In other words, if the state recognizes and protects the human rights of every person, then it can be said that the country is a democracy. This is the main reference for whether a country is a democratic country or not, because democracy itself cares very much about the people as the owners of power. Every citizen has a human right. Therefore, if the state recognizes and protects it, then it is a democratic country.²³

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23 Human rights, which are the Second Precept of Pancasila, affirm that every citizen has the same rights in his or her circumstances. Everyone has the same obligations and rights to legal protection and guarantees as contained in legal norms. As an application of the Second Precept, human rights put human beings on an equal footing, especially in the context of law, this is because Indonesia is a country of law. Respect and protection of human rights are very important in the implementation of public power under the principle of the rule of law. The values of the Second Precept of Pancasila can be realized if human rights are respected. That way, we can ensure the welfare of the Indonesian people and anticipate tensions due to human rights violations.²⁴

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50 Human rights and state law cannot be separated, in fact thinking legally is related to the idea of how justice and order can be realized. Thus, one of the purposes of the recognition of the rule of law is to protect human rights which means that individual rights and freedoms are recognized, respected, and upheld by governments, including society. Legal restrictions on the rights and freedoms of every citizen need to be established with a clear goal to ensure recognition and respect for human rights.²⁵ Legal protection cannot be separated from an understanding of legal theory. In simple terms, legal theory is an opinion, view and understanding of an object of a problem related to reality. Legal protection as a fundamental part not only protects oneself, but also includes the ownership of personal property and property owned by a community or society.²⁶

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21 Legal protection is also an inseparable part of the state's obligation to realize welfare in the context of social justice. As stated by Satjipto Rahardjo, legal protection is the protection of human rights that are harmed by others and this protection is given to the community so that people can enjoy all the rights provided by the law. The state has an important role in protecting citizens. Legal protection of citizens is the responsibility of the state to ensure justice, security,

²² *Ibid.*, hlm. 216.

²³ Wari Martha Kambu, "Tinjauan Yuridis Tentang Hak Asasi Manusia Berdasarkan Pasal 28D Ayat 3 Undang-Undang Dasar 1945," *LEX ET SOCIETATIS* 9, no. 1 (12 Januari 2021), <https://doi.org/10.35796/les.v9i1.32170>.

²⁴ Pika Sari dkk., "Protection of Human Rights in Pancasila Democracy," *DiH: Jurnal Ilmu Hukum* 20, no. 2 (Agustus 2024): 190–201, hlm 198. <https://doi.org/10.30996/dih.v20i2.10872>.

²⁵ Dany Tri Hutabarat dkk., "Understanding And Describing Relationship Of State Law And Human Right," *SOCIAL SCIENCES AND BUSINESS (JHSSB)*, vol. 1, 2022, <https://ojs.transpublika.com/index.php/POLRI/>.

²⁶ Taufik H. Simatupang, "Expansion of Defensive and Positive Legal Protection Concepts and Measures to Protect Geographical Indications as Part of Communal Intellectual Property," *Jurnal Penelitian Hukum De Jure* 23, no. 1 (30 Maret 2023): 101–14, hlm. 104. <https://doi.org/10.30641/dejure.2023.v23.101-114>.

and safety of the community. Legal protection carried out by the state also has a crucial role in maintaining stability that occurs in a country.²⁷

In addition, Philipus M. Hadjon stated that legal protection is a concept that involves legal measures and mechanisms designed to protect the rights of individuals and society as a whole. Legal protection aims to provide certainty to everyone to have fair access to justice, security, and equal treatment under the law. Philipus M. Hadjon emphasized how important legal protection is in maintaining social justice and the balance of power in society. Legal protection covers several aspects, including protection against violence, discrimination, abuse of power, and human rights violations. This involves the establishment of fair laws, an independent judicial system, and effective law enforcement mechanisms. Effective legal protection can provide a sense of justice and legal certainty for everyone in society. Philipus M. Hadjon emphasized legal protection as a principle that must ensure that personal rights are recognized and protected.²⁸

Hence, it can be said that a third party in good faith at this time does not have legal protection because property right which is a human right has not been protected due to the lack of legal certainty regarding what legal consequences will occur if the minister of finance does not implement a determination or court decision granting the objection application of the third party in good faith. In addition, with the prohibition for any party to confiscate state property, as well as the absence of consequences or legal consequences regulated in the regulation, a third party in good faith cannot make any effort to obtain his property. Moreover, if it is associated with the previous explanation which in essence the minister of finance cannot carry out the determination or court decision because there is no regulation regulating the procedures for its implementation, it can be said that the regulation cannot be implemented or at least cannot be implemented until there is a regulation regulating the procedures for the implementation of the minister of finance in carrying out the determination or court. Therefore, it is necessary to clarify again what are the consequences or legal consequences of the non-implementation of a determination or court decision by the minister of finance, and there is a need for legal certainty for the property of a third party in good faith so that the determination or decision can be implemented based on the applicable laws and regulations.

4. CONCLUSION

It is imperative to note that without proper regulations from the minister of finance detailing the procedures for enforcing a determination or court decision that favors a third-party objection made in good faith, the implementation of Supreme Court Regulation Number 2 of 2022 cannot proceed. Indonesia, as a nation governed by the rule of law, necessitates clear laws and regulations for the effective administration of the state, ensuring legal certainty. Furthermore, the absence of legal provisions for the minister of finance to execute the determination of court decision could leave third parties unable to seek legal remedies or

²⁷ Daffa Arya Prayoga, Jadmiko Anom Husodo, dan Andina Elok Puri Maharani, "Perlindungan Hukum Terhadap Hak Warga Negara Dengan Berlakunya Undang-Undang Nomor 23 Tahun 2019 Tentang Pengelolaan Sumber Daya Nasional," *Sovereignty: Jurnal Demokrasi dan Ketahanan Nasional* 2, no. 2 (2023): 188–200, hlm. 191.

²⁸ Kornelis Antonius Ada Bediona dkk., "Analisis Teori Perlindungan Hukum Menurut Philipus M Hadjon Dalam Kaitannya Dengan Pemberian Hukuman Kebiri Terhadap Pelaku Kejahatan Seksual," *Das Sollen: Jurnal Kajian Kontemporer Hukum dan Masyarakat* 2, no. 1 (Januari 2023).

1 recourse against the objected party. Consequently, it can be argued that third parties acting in
1 good faith are not adequately protected under Supreme Court Regulation Number 2 of 2022.
To address this issue, it is recommended to:

- establish ministerial regulations outlining the procedures for implementing court determinations or decisions to safeguard third parties acting in good faith;
- 19 - amend Supreme Court Regulation Number 2 of 2022 by including provisions to address the legal implications of improper implementation by the minister of finance;
- 49 - revise Article 50 of Law Number 1 of 2004 to empower third parties in good faith to seek legal remedies or coercive measures in cases of non-implementation of court determinations or decisions, ensuring their legal protection;
- 38 - issue technical regulation providing guidelines on the procedure for the execution of determination or court decision granting the objection of third party.

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