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Quo Vadis Authority to Manage Public Agency Credits by The State Credits Affairs Committee (PUPN

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Quo Vadis Authority to Manage Public Agency Credits by The State Credits Affairs Committee (PUPN)

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Abstract

This study aims to examine the authority of the State Credits Affairs Committee (PUPN) to settle public agency credit. The Constitutional Court (MK) Decision Nr. 77/PUU-IX/2011 which abolished the phrase settlement of credits from bodies that are either directly or indirectly controlled by the State by PUPN. Otherwise, Government Regulation No. 28 of 2022 concerning Pengurusan Piutang Negara oleh PUPN regulated that PUPN can handle creditors in bad faith from special bodies/institutions/public legal entities. The research questions how public agency credits are managed by PUPN? This study differs from previous studies because it uses a public financial law perspective on the characteristics of public bodies as sui generis institutions and PUPN's special authority in managing receivables. This research is important because it provides a legal study on legal certainty in the practice of managing public agency receivables by PUPN and eliminates concerns about lawsuits over the management of said receivables by PUPN. The research results show that processing public agency receivables by PUPN is only an alternative determined by the public agency - it does not have to be submitted. This concept is based on the application of the sui generis nature and legal subject status of public bodies and is used to optimize the management of public bodies' credits because PUPN has extraordinary coercive authority. This kind of mechanism has a positive value for public bodies in maintaining their financial health and also in efforts to maintain optimal service to the public which is the task of public bodies.

Keywords: public agency credits; state credits; The State Credits Affairs Committee

1. INTRODUCTION

The State Credit Affairs Committee (PUPN) was formed in 1960 based on Law No. 49 Prp. on 1960 concerning The State Credit Affairs Committee (Law of PUPN). The receivables managed by PUPN are debts that (a) must be paid to the Central Government or Local Government; and (b) to bodies whose capital is partly or wholly owned by the State, such as State Banks, State Limited Liability Companies, State Companies, State Foundations and so on.¹

In The Constitutional Court (MK) Decision No. 77/2011, MK decided that the phrase "... bodies which are either directly or indirectly controlled by the State based on a regulation, agreement or whatever reason" was deleted. Thus, PUPN no longer has the authority to handle receivables originating from SOE's.

Government Regulation No. 28 of 2022 concerning Management of State Credits by PUPN (PP PUPN) states that PUPN can handle bad debts from special agencies/institutions/public legal entities that are established by statutory regulations to carry out some of the Government's duties and authorities (Article 74 paragraph (1)). Does this norm conflict with the contents of MK Decision No. 77/2011? How should the PUPN's authority in handling public institution receivables be regulated based on the theory of state financial law?

This condition creates legal uncertainty in the practice of managing public agency receivables and raises concerns about lawsuits over the management of public agency receivables by PUPN.

¹ "Undang-Undang No. 49 Tahun 1960 Tentang Panitia Urusan Piutang Negara" (1960).

9 Here are some previous studies related to the topic discussed in this study. The research conducted by Saputra² and Sumarto,³ which unfortunately, examined BUMN without further reviewing the nature of the legal entity itself, whether public or private. This research will further review the management of state receivables in public legal entities. Referring to the research conducted by Matondang,⁴ where LPEI as a public legal entity can hand over the management of its bad debts to PUPN has a weakness in its conceptual thinking which is only supported by empirical conditions and does not refer to regulatory norms or legal theory. Therefore, it is important to conduct further research by basing the research on regulatory norms and legal theory, as done in this study.

6 The research questions in this study is, how public agency credits are managed by PUPN? This study uses a public financial law perspective on the characteristics of public bodies as sui generis institutions and PUPN's special authority in managing receivables. This research is important because it provides a legal study on legal certainty in the practice of managing public agency receivables by PUPN and eliminates concerns about lawsuits over the management of said receivables by PUPN. This research will provide a new framework for thinking about PUPN's authority in managing public agency receivables by referring to existing legal norms and public financial law theory.

2. METHOD

2 Analysis of the research problem was carried out doctrinally. This research uses the regulation related to the research question, such as Law No. 1 of 2004 which provides the definition of state credits as the amount of money that must be paid to the Central Government or the rights of the Central Government which can be valued in money as a result of agreements or other consequences based on applicable laws and regulations or other legitimate consequences.

16 Otherwise, some theories used to answer the research problem, such as legal entity theory, transformation theory and sui generis principle. From a legal perspective, an institution that is a legal entity is clearly a sui generis institution because it can form its own financial management according to the needs of running the organization, including managing its credits. Included in sui generis institutions are institutions that do not have a legal entity, but the management of the institution does not refer to the usual institutional management. Public bodies, whether legal entities or sui generis institutions, are institutions that represent the state in providing services to the community. The aim of public agency services is public interest. Therefore, the existence of public bodies must be maintained for the continuity of serving the needs of the community.

3. RESULT AND DISCUSSION

3.1 PUPN's Authority to Handle Creditors in Bad Faith from Public Bodies

34 ² Raden Ismail Alam Saputra, "Status Penyelesaian Piutang Bank BUMN: Komparasi Putusan Mahkamah Konstitusi No. 77/PUU-IX/2011 Dan Putusan Mahkamah No. 48/PUU-XI/2013," *Jurnal Ilmu Sosial Dan Pendidikan* 6, no. 4 (2022): 2172–83, <https://doi.org/10.36312/jisip.v6i4.3607/http://ejournal.mandalanursa.org/index.php/JISIP/index>.

28 ³ Sulaiha Sumarto, "Kepastian Hukum Penyelesaian Hutang Piutang BUMN Perbankan Melalui PUPN," *Lex Administratum* VII, no. 4 (2019): 21–33.

44 ⁴ Hermanus Matondang, "Penyerahan Pengurusan Piutang Macet Lembaga Pembiayaan Ekspor Indonesia Kepada Panitia Urusan Piutang Negara," *Dharmasisya Jurnal Program Magister Hukum FHUI* Vol. 1, Article 19 (2023): 1901-1910, <https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/19>.

This sub-chapter will discuss the PUPN's authority in handling receivables from public bodies that act in bad faith and explore how applicable regulations affect the scope and limitations of PUPN's authority.

"State credits or debt to the state is the amount of money that must be paid to the state or bodies that are either directly or indirectly controlled by the state based on a regulation, agreement or whatever reason," as stated in the quote in Article 8 of the Prp Law. No. 49 of 1960. it can be said that PUPN has the authority to handle credits from state, bodies controlled directly by the state, and bodies that are not directly controlled by the state.

2 The definition of state credits as the amount of money that must be paid to the Central Government or the rights of the Central Government which can be valued in money as a result of agreements or other consequences based on applicable laws and regulations or other legitimate consequences," as state in the Law No. 1 of 2004. Thus, state credits managed by PUPN only include Central Government receivables. Of course, this norm narrows the scope of processing receivables by PUPN as regulated in Law of PUPN.

25 1 Such differences give rise to differing opinions in interpreting the scope of state credits. Meanwhile, the parties have the opinion that the scope of processing PUPN receivables still refers to Law of PUPN, namely covering the state, bodies controlled by the state directly and indirectly. There are norms in Law No. 1 of 2004 must be read as one breath with Law No. 17 of 2003 concerning State Finance because state receivables are part of state financial management where in the State Finance Law it is regulated that the scope of state finance includes: a) the state's right to collect taxes, issue and circulate money, and make loans; b) the state's obligation to carry out general state government service tasks and pay third party bills; c) state revenue; d) state expenditure; regional revenue; e) regional expenditure; f) state/regional assets managed independently or by other parties in the form of money, securities, credits, goods and other rights that can be valued in money, including assets separated from state/regional companies; g) wealth of other parties controlled by the government in the context of carrying out government duties and/or public interests; h) wealth of other parties obtained by using facilities provided by the government.

3 15 3 In other words, state credits must be read as credits from the state, regions, agencies controlled by the state directly or indirectly. The definition of state credits in the State Treasury Law which uses the phrase "Central Government" actually refers to government financial reports. Therefore all institutions listed in the central government's financial reports are within the scope of state finances and under the management scope of PUPN.

3 On the other hand, some argue that the scope of processing receivables by PUPN must refer to the latest law which contains the definition of state credits, namely the State Treasury Law. The State Treasury Law is an independent law that is not related to other laws, so the scope of state credits are only credits from the Central Government.

Differences of opinion regarding the scope of processing state credits by PUPN greatly affect the processing of credits themselves, especially for state-owned banks where the elimination of bad debts must still be handed over to PUPN to be handled, and they are not allowed to use corporate settlement methods like private banks.

Until 2006, differences of opinion regarding the settlement of bad loans (state credits) at state-owned banks occurred between parties who wanted to resolve bad loans at state-owned banks through PUPN in accordance with Law of PUPN with parties who wanted to resolve bad

17 loans at state-owned banks in a corporate manner in accordance with the Limited Liability
36 Company Law. From the data obtained, up to 2006, the largest number of bad banking loans
24 occurred in state-owned banks, namely around 70%.⁵ Such an amount will certainly have a
3 negative impact on banking finances and the smooth running of banking activities, as well as
20 a negative impact on the national economy considering that 80% of Indonesia's economic
6 activities are supported by banks. Seeing these conditions, the Minister of Finance requested a
31 legal fatwa from the Supreme Court (MA) regarding the resolution of bad loans at state-owned
39 banks. Based on this request, the Supreme Court issued MA Circular No.
8 WKMA/yud/20/VIII/2006 dated 16 August 2006 which states that SOE'S credits are declared
27 not to be state credits.⁶ Thus, PUPN's authority to handle credits (bad credit) of banking
8 SOE'Ss as regulated in Law of PUPN it became invalid (not legally binding) with the birth of
4 Law No. 19 of 2003 concerning SOE'S and Law No. 1 of 2004 concerning State Treasury.

This MA fatwa is the basis for changes to PP No. 14 of 2005 concerning Procedures for
Writing off State/Regional Credits. In PP No. 14 of 2005, the write-off of state/regional
company credits whose management is handed over to PUPN is regulated by a Minister of
Finance Regulation. In PP No. 33 of 2006 concerning Amendments to PP No. 14 of 2005, this
regulation was removed, and Article II stipulates that the processing of State/Regional
Company credits are carried out in accordance with regulations in the field of Limited Liability
Companies and SOE'S.

8 In PMK No. 128/PMK.06/2007 stipulates that government agencies include Central
Government agencies, Regional Government agencies, State Institutions, the Secretariat
General of State Commissions/Higher State Institutions, State-Owned Legal Entities, and
Public Service Agencies. Referring to this categorization, it can be seen that what is meant by
Government agencies includes all agencies that carry out public affairs, including State-Owned
Legal Entities which are categorized as public bodies.

27 The public nature is also seen in the PMK No. 88/PMK.06/2009 which amends PMK
8 No. 128/PMK.06/2007 which regulates that bad debts originating from funds channelled using
a channelling⁷ or risk sharing pattern by SOE'S/BUMD⁸ or business entities whose capital is
mostly owned by SOE'S/BUMD can be handed over to PUPN.⁹ So as long as the money
originates from the state and is used for public benefits, if there is a problem in repayment, the
credits can be handled by PUPN.

Furthermore, in 2011, the MK issued decision No. 77/PUU-IX/2011 which states that
state-owned bank credits are not state credits. Following up on the MK's decision, PMK No.
48/PMK.06/2014 which amends for the third time PMK No. 128/PMK.06/2007 which in its
consideration stated that PUPN no longer handles bad debts of state-owned banks in

⁵ "Fatwa MA yang menjadi Kontroversi," www.hukumonline.com.

⁶ Fatwa MA No. WKMA/yud/20/VIII/2006 (2006).

⁷ "Channelling is a pattern of fund distribution by the government to the public through banking or non-banking financing institutions where the government bears the risk of loss if there is an unpaid loan." "Peraturan Menteri Keuangan No. 88/PMK.06/2009 Tentang Perubahan Atas Peraturan Menteri Keuangan No. 128/PMK.09/2007 Tentang Pengurusan Piutang Negara" (2009). Article 1 number 8.

⁸ "Risk sharing is a pattern of fund distribution by the government to the public through banks or non-banking financing institutions where the government and banks or non-banking financing institutions share the risk of loss if a default occurs." Peraturan Menteri Keuangan No. 88/PMK.06/2009 tentang Perubahan atas Peraturan Menteri Keuangan No. 128/PMK.09/2007 tentang Pengurusan Piutang Negara. Article 1 number 9.

⁹ Peraturan Menteri Keuangan No. 88/PMK.06/2009 tentang Perubahan atas Peraturan Menteri Keuangan No. 128/PMK.09/2007 tentang Pengurusan Piutang Negara. Article 3 paragraph (3) and Article 3A.

6 accordance with MK Decision No. 77/PUU-IX/2011. SOE'S/BUMD bad debts managed by PUPN only originate from the distribution of funds originating from Government Agencies through channelling or risk sharing patterns. In Article 3, State-Owned Legal Entities (BHMN) and Public Service Agency (BLU) are no longer listed as parties who are obliged to hand over the management of their bad debts to PUPN.

In PMK No. 21/PMK.06/2016 (Article 2) again BLU credits are managed by PUPN, and also other legal entities formed by statutory regulations including the scope of management by PUPN. Thus, not only BHMN but also other legal entities that have different names, such as sui generis legal entities.

In subsequent developments, PMK No. 240/PMK.06/2016. The latest PMK does not change at all the scope of state receivables managed by PUPN.

5 11 The latest regulations regarding the management of state receivables are regulated in PP No. 28 of 2022 concerning the Management of State Credits by PUPN. Referring to the explanation of Article 2 paragraph (1) PP No. 28 of 2022 which are included in the category of central government/regional government credits are from a) State Ministries/Institutions; b) State/Regional General Treasurer; c) Regional Agencies that are consolidated/recorded in the Central Government Financial Reports/Regional Government Financial Reports; d) Public Service Agency/Regional Public Service Agency; e) Central Government/Regional Government Credits channelled through State/Regional Owned Enterprises through channelling and risk sharing patterns.

23 43 19 Apart from that, Central Government/Regional Government receivables also include credits from: a) People's Consultative Assembly (MPR); b) House of Representatives (DPR); c) Local People's Representative Assembly (DPRD); d) Local Representative Council (DPD); e) Audit Board of the Republic of Indonesia (BPK); f) Constitutional Court (MK); g) Supreme Court (MA); h) Corruption Eradication Commission (KPK); i) Judicial Commission (KY); j) General Election Commissions (KPU); k) Business Competition Supervisory Commission (KPPU); l) National Human Rights Commission; m) Indonesian Child Protection Commission; n) Ombudsman; and o) Other similar state institutions/commissions.

Thus, it is illustrated that this PP regulates in a limited way the credits managed by PUPN and it can be seen that these parties or institutions are representatives of the state which is realized from the consolidation of their financial reports in the Central/Regional Government Financial Reports.

10 17 1 Apart from that, Article 74 paragraph (1) of the PP stipulates that "PUPN can also handle bad debts from special agencies/institutions/public legal entities which are established by statutory regulations to carry out some of the Government's duties and authorities." In the explanation of the article, examples of special bodies/institutions/public legal entities established by statutory regulations to carry out some of the Government's authority include, among others, Bank Indonesia, Financial Services Authority, Deposit Insurance Corporation, Indonesian Export Financing Institution.

In the explanation of Article 74 it is also stated that the management of credits from State-Owned Enterprises/Regional-Owned Enterprises cannot be handed over to PUPN as long as the credits have not been transferred to the central government/regional government. This explanation emphasizes that only state receivables can be managed by PUPN.

3.2 Public Bodies in Indonesia and Their Development

3.2.1 Management of Public Agency Receivables by PUPN

9 In the current era, the development of state/government organizations is so rapid. The formation of these various organizations is intended to support the administration of government according to their respective fields of duty. Currently it is known that there are public bodies. What is meant by "public bodies are executive, legislative, judicial and other bodies whose main functions and duties are related to the state, some or all of whose funds come from the State Revenue and Expenditure Budget (APBN) and/or Regional Revenue and Expenditure Budget (APBD), or non-governmental organizations as long as some or all of their funds come from the APBN and/or APBD, community donations, and/or abroad."¹⁰ In principle, public bodies carry out government functions and affairs carried out by the government.

Referring to the main goals and missions, the presence of public bodies is targeted at meeting community needs and protecting public interests.¹¹ If examined from the main purpose and mission of the presence of the public agency, fulfilling the needs of the community and protecting the public interest is realized in the services provided.

7 Several regulations explain the meaning of public interest. Among other things, in the land sector as stated in Article 1 point 6 of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, "public interests are the interests of the nation, state and society which must be realized by the government and used as much as possible for the prosperity of the people." In the Elucidation to Article 35 letter c of Law No. 16 of 2004 concerning the Indonesian Prosecutor's Office states that "public interests are the interests of the nation or state and/or the interests of the wider community." In other words, the public interest is the interest of the Indonesian people.

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12 In administering government, the public interest is one of the principles in the General Principles of Good Government. In the explanation of Article 10 paragraph (1) letter g of Law No. 30 of 2014 concerning Government Administration states that "the principle of public interest is a principle that prioritizes public welfare and benefit in a way that is inspiring, accommodating, selective and non-discriminatory." With this principle, the public interest is the basis¹² and goal¹³ that must be achieved for every government action in carrying out government duties.

35 It can be concluded that what is meant by public bodies are all government administration institutions that carry out state duties in achieving the public interest in the form of prosperity for all Indonesian people. The institution in question can be a state organ or a state administrative organ. After the reform, the institutions included in state organs and administrative organs experienced rapid development in terms of numbers and also in terms of the functions they carried out becoming more specific. All of these organs receive funding from the State Budget (APBN).

In recent years, sui generis institutions have also developed in Indonesia, for example the Social Security Management Agency (BPJS Health), the Employment Social Security Management Agency (BPJS Ketenagakerjaan), the Land Bank Agency, the Investment

¹⁰ "Undang-Undang No. 14 Tahun 2008 Tentang Keterbukaan Informasi Publik" (2008)., Article 1 number 3.

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30 ¹¹ Fadjar Trisakti, Adnin Dikeu Dewi Berliana, Al Bukhori, Alya Fitri, "Transparansi dan Kepentingan Umum," *Jurnal DIALEKTIKA: Jurnal Ilmu Sosial*, Vol 19 No. 1 (2021): 35, <http://jurnaldialektika.com>.

¹² Ridwan HR, *Hukum Administrasi Negara*, Edisi Revi (Jakarta: Rajawali Press, 2011)., p. 263.

¹³ Y. Warella, "Kepentingan Umum Dan Kepentingan Perseorangan (Ditinjau Dari Aspek Kebijakan Publik)," *Dialogue JIAKP* 1, no. 3 (2004): 381-91.

26 Management Agency (LPI) which complement the existing sui generis institutions, namely Bank Indonesia (BI), Deposit Insurance Corporation (LPS) and Financial Services Authority (OJK). All existing institutions are institutions that carry out some government tasks, and their existence is focused on public services to protect the interests of the people. Sui generis institutions that carry out public service duties as part of government administrations, are formed by law. Formation by law shows that sui generis institutions have specialties compared to other institutions. Apart from that, formation by law shows the use of state public power to form a different or special institution. The establishment of a sui generis institution must be by law considering that this institution carries out some of the government's functions and duties which contain public power. Therefore, its formation must be with the approval of the people as the holder of sovereignty, which in this case is carried out by the DPR. The special nature of sui generis institutions that use state power certainly needs to be given clear boundaries because the public power of the state can use coercive public authorities. This sui generis institution was formed in accordance with the objectives of public services (government administration) to increase benefits for the people.

Sui generis is a Latin term which means having its own characteristics.¹⁴ Thus, *sui generis* institutions are institutions that have their own characteristics compared to other public institutions. In terms of financial management, *sui generis* institutions have the authority to carry out their own financial management according to their needs in order to achieve the institution's goals. Therefore, even though sui generis institutions receive initial funding from the Government, their financial governance can be different from the government's financial governance.

32 Referring to the unique characteristics of a sui generis institution, the institution may be a legal entity or not. From a legal perspective, an institution that is a legal entity is clearly a sui generis institution because it can form its own financial management according to the needs of running the organization, including managing its credits. Included in sui generis institutions are institutions that do not have a legal entity, but the management of the institution does not refer to the usual institutional management. For example, in this case, OJK is not a legal entity but has its own characteristics in terms of financial management to support the successful implementation of its duties and authority. OJK has the freedom granted by law to regulate its organization, including its financial management, which is different from other government institutions. Such authority is intended to provide freedom of movement for OJK considering that the financial sector is a very dynamic sector that requires flexibility in making policies.

18 Reflecting on the existence of sui generis institutions in Indonesia, these institutions are a manifestation of the state's public power in providing services to the community. For this reason, the existence of this sui generis institution is very important for the people and is needed by the people. Based on the description above, several characteristics of sui generis institutions can be drawn, namely: a) formed by the Government; b) established by law; c) carry out government functions and duties; d) attached to public power; e) the purpose of formation is to optimize services for the community; f) its existence is needed by society; g) given the authority to regulate and manage the institution itself, including financial management; h) provided flexibility in policy making.

¹⁴ [Sui Generis: Legal Concept Explained \(getlegalbuddies.com\)](https://getlegalbuddies.com).

7 Public bodies, including sui generis institutions and public legal bodies, are institutions established by the government to provide services to the community as part of the government's duties. In some institutions, it is possible for accounts receivable to be owed to third parties.

7 The position and function of the public body is independent from the Government where the public body can regulate the management of its own organization in accordance with the interests of implementing objectives of said public body. The purpose of establishing/forming this public body is in accordance with the word public which is attached to the body which means it has a public nature. This public nature means that the agency was formed to provide services to the community. The existence of this public body is aimed at optimizing services to the community specifically according to their respective areas of duty.

12 As stated previously, service to the community is the state's duty. However, in the course of its development, considering the increase in the number and types of state services that could not be carried out by government institutions, a body was formed that specifically represented the state to handle the services in question. Considering that the service tasks carried out by these bodies are the duties of the state and these bodies are representatives of the state, these bodies are imbued with public power and authority, because only institutions that are imbued with public power and authority can carry out public actions on behalf of the state.

For example, the existence of BI is a state institution that represents the state in the task of maintaining monetary stability. It is known that monetary stability in a country greatly influences the national economy, both for the state fiscal and for the community economy. If the economy experiences fluctuations, it is certain that it will have a direct impact on society, starting from increasing prices of goods/services to scarcity of goods/services which of course affects people's lives. Therefore, the existence of BI is very important for people's lives.

40 Another example is the existence of LPS. LPS is an institution established to maintain public trust in banking and other financial institutions. The economy can develop only with support from the financial sector. Basically, the core of activities in the financial sector is managing public funds. Therefore, in order for the financial sector to grow and develop, public trust is needed to hand over financial management to financial institutions. On the other hand, activities in the financial sector are risky and susceptible to fluctuations. This combination requires the existence of an institution that can guarantee the protection of public funds managed by financial institutions (the amount of funds protected is in accordance with the provisions of statutory regulations). Thus, the existence of LPS is very important so that public funds are protected while also ensuring that financial institutions continue to have funding sources (which come from the community) so that the sustainability of financial institutions can also be guaranteed and the national economy can grow and develop.

6 Referring to the aim of establishing public bodies which refers to the interests of society, it is the state's duty to maintain the continued existence of public bodies. For this reason, the handling of receivables in public bodies can be viewed from several perspectives, namely (1) the perspective of public bodies as institutions that carry out some of the state's tasks; (2) public interest perspective; and (3) the financial management perspective of public agencies, as presented below.

Perspective of the duties of public bodies as institutions that carry out some of the state's duties. Institutionally, public bodies are institutions established by the state to represent the state in providing services in the government sector. To carry out tasks on behalf of the state,

public bodies are vested with state power in the field of public law. The powers granted provide authority for public bodies to act on behalf of the state to provide public services. Thus, institutionally, public bodies are the organs of state administration.

33 The second perspective is the public interest as the goal of carrying out the duties of public bodies. The formation/establishment of public bodies is intended to keep up with the rapid development of state duties, which in several fields require special treatment so that these public bodies can carry out specific services. In accordance with the aim of administering government, it is to achieve community welfare in a fair and equitable manner. Thus, the aim of the services provided by public bodies is the interests and needs of the community. For the sustainability of the interests and needs of the community, the existence of this public body remains and needs to be maintained so that the community is well served.

37 The perspective of financial management in the context of public power and public interests. Most public bodies are statutory bodies, and others are sui generis Institutions. As a legal entity, in accordance with the theory of legal subjects, legal entities are legal subjects. Every legal subject has rights and obligations in legal relations. Public bodies as legal subjects also have rights and obligations in legal relations, and to safeguard the fulfillment of their rights and obligations, public bodies have the authority and discretion to regulate their own financial management and governance. This is intended so that the legal entity can achieve the objectives of its formation. Basically, a sui generis institution is an institution that is given the freedom to regulate its financial management and governance in accordance with the characteristics of a sui generis institution. As stated previously, sui generis institutions do not always have legal entities. However, with its sui generis nature, this sui generis institution is given the authority to regulate its own management and financial governance in order to fulfill the purpose of its formation like a legal entity.

41 Based on the three perspectives above, it can be said that credits from public bodies are the public body's own credits which must be managed by themselves. However, with the position of public bodies as institutions that represent the state in carrying out state duties and the existence of public interests that need to be protected which is the purpose of establishing public bodies, as well as in accordance with the sui generis nature which gives the authority to regulate the financial governance of public bodies themselves, then public bodies can choose to completely complete the processing of their credits or use public power through PUPN to take care of the follow-up to the processing of their credits. The decision to determine the action to be chosen in managing receivables is the authority of the public body itself in accordance with its sui generis nature. In other words, the submission of follow-up actions for processing public agency credits to PUPN is not mandatory but is based on the consideration of the public agency itself. Completion of follow-up actions for processing public agency credits by PUPN is an alternative, not mandatory.

38 5 It needs to be stated here that the submission of follow-up actions for the management of state credits to public bodies by PUPN has advantages or positive value, considering that PUPN as a representative of the state which has public power is endowed with the authority to carry out various coercive actions, whether in the form of coercive actions in the context of management, which include the issuance of forced letters, prevention (banning) from leaving Indonesian territory, confiscating goods, selling goods, and forcing bodies; also in the form of failure to provide services in Civil Actions and other Public Service Actions. Such authority is

3 only possessed by institutions representing the state. This authority certainly has an impact on optimizing the return of state credits. Optimizing the recovery of credits for public bodies is very important to maintain the financial stability of public bodies and the continuity of carrying out the duties of public bodies and guaranteeing the fulfillment of community interests and needs.

3.2.2 Mechanism for Managing Public Agency Credits by PUPN and Legal Status of Public Agency Receivables Managed by PUPN

"Government Agencies and State Agencies are obliged to hand over their credits whose existence and amount are certain according to law but the debt guarantor does not want to pay them properly to the State Credits Affairs Committee," as state in Article 12 Law of PUPN. This norm contains several elements, namely: a) government agencies and state bodies must first make efforts to settle these credits. So the obligation to settle credits remains with government agencies and state bodies.; b) the amount of credits is certain because the credits have been calculated, determined and billed during the credits settlement process by the original credits management agency; c) even though there has been a collection by the original institution, the debt guarantor still does not want to pay it off. Therefore, other efforts are needed to manage it by institutions that have the coercive authority possessed by PUPN; d) such credits must be submitted to be managed by PUPN.

9 Handing over the management of bad debts to PUPN is mandatory because it is intended to avoid a reduction in funds that are entitled to the state. This is important to maintain the health of the state's fiscal/budget and the continuity of the implementation of state duties in realizing state goals, namely the welfare of the people. Referring to the explanation to Article 4, PUPN can take active action, namely taking over the management of bad debts without waiting for handover from the agency where the bad debts originate, when there are concerns about increasing state losses due to misuse of credit.

The mandatory nature of handing over state receivables to PUPN is reaffirmed in Article 8 paragraph (2) PP PUPN.

10 In Article 74 paragraph (1) PP PUPN stipulates that PUPN can handle bad debts from special bodies/institutions/public legal entities which are formed by statutory regulations to carry out some of the Government's duties and authorities and in managing these credits all PUPN authorities also apply, for example in issuing forced letters, and so on. This credit also applies to the requirement to process the credits first by a special body/institution/public legal entity which has the right to collect the credits before handing over the processing to PUPN. Referring to the phrase "can manage" in Article 74 paragraph (1) of this PP, the nature of handing over the processing of credits to PUPN is not mandatory. So it's just an alternative for management. In this case, the institution that's entitled to the credits hands it over to PUPN for further processing of the credits. Such a mechanism is based on the legal subject concept of the public body itself, where as a legal subject it has the authority to regulate its own financial governance, including the management of its credits.

42 Regarding the legal status of credits managed by PUPN, there is a difference between credits transferred from SOE'S/BUMD to PUPN and credits handed over to PUPN by public bodies. Transfer is a legal act of transferring rights, and also changing the legal status of the object being transferred to the new recipient of the right, and everything related to the transfer of the right becomes the authority of the new recipient of the right. Therefore, for

SOE'S/BUMD receivables that are transferred to state credits, the legal status of the credits is no longer SOE'S/BUMD credits but instead becomes state credits. The legal implication is that the results of processing SOE'S/BUMD credits that are transferred to become state credits are not handed over to SOE'S/BUMD but instead becomes the rights of the state.

This is different from the credits of public bodies which are managed by PUPN, in this case there is no transfer of rights from public bodies to state credits because there is no transfer action. Thus, the legal implication of the processing of public agency credits by PUPN is that the legal status of the credits remains as public agency credits and the results obtained from processing these credits are returned to the public agency concerned.

4. CONCLUSION

This research contributes to clarifying the authority of PUPN as an alternative in managing public agency receivables in accordance with the sui generis character and status of a public legal entity. Following its position as a legal entity or its sui generis nature, the management of public agency credits are the obligation of the public agency, and the choice of follow-up action for processing public agency receivables by PUPN is the authority of the public agency itself. PUPN's management of public agency credits is only an alternative determined by the public agency – it is not required to be submitted. This is in accordance with the sui generis nature and legal entity status of public bodies which have the authority to regulate their own financial governance. The legal status of public agency credits managed by PUPN remains public agency credits. The results of processing the public agency's credits are then handed over to the concerning public agency. This concept is based on the application of the sui generis nature and legal subject status of public bodies and is used to optimize the management of public bodies' credits because PUPN has extraordinary coercive authority. It can be recommended to public bodies to hand over the follow-up of their credits management to PUPN in order to optimize the return of public bodies' credits. By handing over the management of receivables to PUPN, public bodies can ensure financial stability to support the continuity of services to the public.

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