

Legal Analysis of State Losses Due to Unlawful Resumption of Tin Ore Production by PT Timah Tbk

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Abstract. PT. Timah Tbk as a national tin mining company which is part of BUMN is the holder of an IUP (Mining Business License). Production operations spread across the Bangka Belitung Islands and Kundur. These IUPs are spread across land and sea areas. To obtain maximum profits, PT. Timah Tbk is required to increase tin ore production which will later become a source of profits as a contributor to dividends or profit sharing to the State. The focus of the problem that will be analyzed is what the legal treatment would be if, in running its business, PT. Timah Tbk, which is currently located as a Subsidiary of a BUMN whose parent company is Mining Industry Indonesia (MIND ID) carries out a program called Increasing Recovery of Tin Ore Production which is not based on the principle of prudence and good faith, a series of criminal incidents occurred which indicated that Good Corporate Governance was not implemented, whether there were unlawful acts that caused losses to the PT. Timah Tbk Company were categorized as state financial losses. Method This research uses a normative juridical method with a case study approach.

Keywords: State Losses, Corruption, State Finances, Mining Companies

1 Introduction

Mining is an industry that manages natural resources by processing mineral resources to obtain end products that are highly useful for humanity. The mining sector is one of Indonesia's major foreign exchange-earners.[1] Essentially, the development of this country is also supported by the mining sector. This development must remain in line with the constitutional goals of the Indonesian nation, which include achieving a prosperous state with social justice, civilization, and humanity.[2] Indonesia is a state based on Pancasila and the 1945 Constitution, which aims to realize prosperity, peace, and orderly living for the nation and state.[3]

In order to protect and create the welfare of society, criminal law holds a central position in the resolution and prevention of crimes. The role of criminal law is crucial, both now and in the future, as a form of social control to prevent the emergence of disorder, especially in controlling illegal mining offenses, which have reached a massive intensity in Bangka Belitung due to regulatory policy and law enforcement management not being carried out with strategic consideration.[4]

In its history, PT. Timah Tbk is a transition from Dutch-owned mining companies, Banka Tin

Winning Berdrij (Bangka) and Gemeenschappelijke Mijnbouw Maatschappij Billiton (Belitung), which were established in 1856 and 1858, respectively, and were the only tin mining companies operating in Bangka and Belitung.[5] Later, when Indonesia gained its independence, the Indonesian government took over the management of these two companies and changed their name to PN Tambang Timah in 1968. In 1976, the government established a state-owned company named PT. Tambang Timah (Persero), and since then, the national tin mining industry has been entrusted to PT. Tambang Timah (Persero). PT. Tambang Timah (Persero) changed its name to PT. Timah (Persero) Tbk in 1995.[6] This event illustrates that PT. Timah (Persero) Tbk inherits the largest tin ore deposit potential area, which is now designated as its Production Operation IUP, and this is the result of a very long history of tin exploration and mining. In 1980, Government Regulation No. 27 of 1980 concerning the Classification of Mineral Materials was issued, designating tin as a type A mineral material, which is a strategic mineral material. Only PT. Tambang Timah (Persero) as a state-owned enterprise has the authority to carry out tin mining activities from exploration to marketing.

In 1999, Law No. 22/1999 on Regional Government and Law No. 25/1999 on the Fiscal Balance between the Central Government and Regions were enacted, marking the beginning of the era of regional autonomy. This was followed by the issuance of Minister of Trade Decree No. 146/1999 concerning General Provisions in the field of exports, where tin was no longer considered a strategic state commodity for export. With the issuance of these regulations, regional governments began to formulate their own policies. In the mining sector, the Bangka Regency government issued Regional Regulation No. 6 of 2001 concerning General Mining Management. This regulation provided an opportunity for the community to engage in mining activities.[1]

Since time immemorial, the Bangka Belitung Islands have been recognized as one of the world's largest tin producers. Mining occurred on a massive scale because tin was no longer considered a strategic commodity, signifying policy changes that allowed anyone to engage in tin mining.[7] These policy changes were met by the local population in the Bangka Belitung Islands by engaging in massive on-land tin mining activities. Initially, these activities took place in the locations designated for tin mining by PT. Timah (Persero) Tbk, but they later expanded to the company's resources and reserves. These mining activities were conducted without permission and cooperation (illegally) with PT. Timah (Persero) Tbk and are generally referred to as illegal mining or "TI." TI miners used non-standard equipment, such as small excavators and makeshift short sluices, approximately 6 meters in length. According to the company's studies, the use of short sluices resulted in a low recovery rate of about 60%.

As a result, there is still an economical tin content in the waste material for washing the saddle. This condition is then used by tin weighers to extract their tin ore. Thus, illegal tin harvesting activities in the Company's IUP carried out by the community are carried out in practice in the form of mining, namely IT and weighing or panning. These activities are carried out at the Company's mining sites and even on tailings land that has been reclaimed by PT. Timah Tbk so that it becomes damaged causing a lot of losses where the Company has spent funds for the reclamation activities. The company must spend double the cost to reclaim these lands.[8]

Consequently, there were still economically viable tin contents left in the waste materials processed through these sluices. Subsequently, tin scavengers took advantage of this situation to retrieve tin ore. Thus, illegal tin extraction within the company's Production Operation IUP

was practiced by the local community in the form of both "TI" mining and scavenging. These activities occurred within the company's mining locations, even on the tailing land that had been reclaimed by PT. Timah Tbk, causing further damage and incurring significant losses.[5]

The company had to allocate additional funds (double cost) to restore these areas. The practice of illegal tin extraction ("TI" and scavenging) ultimately extended to the company's tin reserve locations, leading to depletion of the company's tin reserves. This illegal tin extraction by the local community continued to proliferate. The number of "TI" units reached thousands. The situation deteriorated with the emergence of tin collectors or middlemen financed by irresponsible parties, further fueling the prevalence of illegal tin extraction. These collectors purchased tin from "TI" miners and scavengers and subsequently sold it to private smelters. The high dependence on tin mining for the economy of Bangka Belitung has transformed this island province into an area characterized by severe environmental damage and social upheaval. The government's ability, through regulatory instruments, to tackle illegal mining is an important and ideal objective to be pursued.[9]

Regarding the number of people and the number of on-land tin mining units by the local community, it is challenging to obtain comprehensive and complete data. This is because scavengers and local miners are not easily traceable, and they tend to move around or settle in one place for a long time. In 2001, Sutedjo S (2007) mentioned that there were 5,991 on-land tin mining units by the local community. PT. Timah Tbk, through its security patrol activities, recorded the number of illegal mining ("TI") units as follows: In 2015, there were 1,236 units; in 2016, there were 1,185 units; and in 2017, there were 1,237 units.

The data from the security patrol unit does not include the number of scavengers among the local community. This is due to the widespread nature of scavenger activities in the field. Patrols are focused solely on the equipment used for illegal tin mining ("TI") that operates in the field.

Based on the data provided, it is possible to estimate the potential losses incurred by the company. Assuming that the production of each "TI" unit is 1 ton per month, the potential tin loss per year is as follows: In 2015, 14,832 tons of Sn; in 2016, 14,220 tons of Sn; in 2017, 14,844 tons of Sn. The total tin loss from 2015 to 2017 is 43,896 tons of Sn. If we assume that the average metal price from 2015 to 2017 is USD 20,000 per metric ton, with an exchange rate of Rp 13,000/USD, the total potential loss amounts to approximately IDR 11.4 trillion over three years.

Considering the substantial potential loss of revenue, in the second half of 2017, PT. Timah Tbk made a significant move by implementing the Tin Ore Recovery Production Increase Program (Recovery Program). This program had several key aspects:

- a) It was part of the company's strategy to secure tin ore reserves and resources across the company's IUP areas.
- b) It aimed to obtain tin ore from both the recovery process (SHP) and illegal tin mining (with compensation provided).

To implement this program, PT. Timah Tbk established internal regulations as guidelines. These regulations were published in the form of Standard Operating Procedures (SOPs) effective from October 30, 2017, which included:

- a. SOP/02/P2P dated October 30, 2017, regarding the Procedure for Sending, Receiving, and Transporting Tin Ore Recovery Products (SHP).
- b. Instruction File No: IK-SHP-01 dated October 30, 2017, concerning Tin Ore

Recovery, Collection, Payment, and Transportation.

- c. SOP/03/P2P dated October 30, 2017, outlining the Procedure for Reporting Tin Ore Recovery Products as Production Reports.

Apart from the regulatory framework in place to execute the program, PT. Timah Tbk allocated a significant budget to support its implementation, estimated to be in the trillions of rupiahs. Given the substantial budget allocation, there was a possibility that certain individuals might seek to profit from the program. This could potentially lead to unethical behavior within the program's vicinity. Some indications of misconduct could include:

- a. Indications of manipulation or the artificial inflation of tin ore content values between individuals or legal partners and PT. Timah Tbk personnel.
- b. The possibility of fictitious buying and selling of tin ore from the program by individuals or legal partners in collusion with PT. Timah Tbk personnel, constituting a criminal act.

In addition to that, the Tin Ore Recovery Production Increase Program (commonly referred to as SHP) which involves the retrieval of tin ore from illegal mining activities and providing compensation may lead to legal issues. This aligns with the mandate of Article 96, paragraph c of the Republic of Indonesia Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. The law stipulates that "in the application of good mining technical principles, IUP (Mining Business License) and IUPK (Special Mining Business License) holders are required to conduct mining environmental management and monitoring, including reclamation and post-mining activities," as regulated in Article 2, paragraph 1 of Government Regulation Number 78 of 2010 concerning Reclamation and Post-Mining.

Based on this law, if compensation is granted to illegal miners operating within PT. Timah's IUP areas, the responsibility for fulfilling reclamation obligations becomes a pertinent issue. It raises questions about whether this responsibility falls on the state and is delegated to PT. Timah Tbk, or whether it remains with the illegal miners themselves.

2 Method

Scientific research in law typically originates from specific legal issues. Legal issues represent the research problems that will be investigated using particular research methods. It is a common understanding and a fundamental necessity in legal research that it is characterized by its normative nature.[10] Soerjono Soekanto asserts that legal research is a scientific activity based on specific methods, systematic processes, and structured reasoning, to study one or more particular legal phenomena and their analytical methods. It involves in-depth examinations of legal facts to seek solutions to the legal issues arising within these legal phenomena.[11] The research approach used in this study employs a conceptual approach and a statutory approach. The conceptual approach involves examining views and doctrines within the field of legal studies to discover ideas that generate legal concepts, definitions of law, and relevant legal principles related to the legal issue.[12] The statutory approach entails studying legal materials through document analysis or library research, which involves collecting legal resources by researching literature, documents, expert opinions, and articles that explain legal concepts.[13]

3 Result and Discussion

State-Owned Enterprises (BUMN) play a significant role in the national economy based on the principles of economic democracy.[14] Their role is to contribute to the well-being of society, as stipulated in the Republic of Indonesia Law No. 19 of 2003 regarding State-Owned Enterprises. The main objective of establishing BUMN is to generate profit, as articulated in Article 1, Section 2, which states that a Limited Liability Company (Persero), referred to hereafter as "Persero," is a State-Owned Enterprise in the form of a limited liability company with at least 51% of its shares owned by the Republic of Indonesia, the primary purpose of which is profit-making. It can be deduced that the government can exert control over a BUMN if it possesses a dominant or majority share composition.

In the capital market, stocks are one of the most popular and profitable financial products for investors. Ownership of stocks in a company is divided into various classifications such as Class A, Class B, and Class C. Class A shares represent funding obtained by companies by issuing preferred shares to investors willing to finance the company's business. Preferred shares, also known as Class A Dwiwarna shares in the context of State-Owned Enterprises, provide a fixed income to investors in the form of dividends.

Class B shares are typically issued to institutional investors or company employees. Funding through Class B shares can involve both new investors and previous investors who participated in the earlier Class A funding stage. In State-Owned Enterprises organized as limited liability companies, the share composition is typically limited to Class A Dwiwarna shares and Class B shares.

In 2022, the government issued Government Regulation No. 46 of 2022 concerning the Government's Capital Injection for the Establishment of Limited Liability Companies (Persero) in the Mining Sector. This regulation aimed to develop a more optimal and efficient business and industrial ecosystem in the mining sector and to continue the government's policy of creating mining industry holdings. As a result of this regulation, PT Timah Tbk transformed from a State-Owned Enterprise into a subsidiary of a State-Owned Enterprise, known as Mining Industry Indonesia (MIND ID). Mining Industry Indonesia (MIND ID) is a State-Owned Enterprise Mining Industry Holding in Indonesia, which includes PT ANTAM Tbk, PT Bukit Asam Tbk, PT Freeport Indonesia, PT Inalum (Persero), and PT Timah Tbk. With the issuance of this regulation, 65% (sixty-five percent) of the shares, amounting to IDR 242,052,679,600.00 (two hundred forty-two billion fifty-two million six hundred seventy-nine thousand six hundred Indonesian Rupiah), in the form of Class B shares were transferred from PT Timah Tbk to its parent company, Mining Industry Indonesia (MIND ID).

The transfer of 65% of Class B shares resulted in PT Timah Tbk having a share composition that consists of only Class A Dwiwarna shares, with a nominal value of IDR 50.00 (fifty Indonesian Rupiah) each. Class B shares, which were transferred, now belong to the public and have a total value of IDR 2,606,699,502.00 (two billion six hundred six million six hundred ninety-nine thousand five hundred two Indonesian Rupiah). Prior to the issuance of this government regulation, PT Timah Tbk's share composition was one (1) Class A Dwiwarna share with a nominal value of IDR 50.00 (fifty Indonesian Rupiah) each and 4,841,053,951 (four billion eight hundred forty-one million fifty-three thousand nine hundred fifty-one) Class B shares with a nominal value of IDR 50.00 (fifty Indonesian Rupiah) each. The value of these Class B shares amounted to IDR 242,052,697,550.00 (two hundred forty-two billion fifty-two million six hundred ninety-seven thousand five hundred fifty Indonesian Rupiah) or 65.00%

(sixty-five percent) of the total, with the remaining 35% (thirty-five percent) owned by the public and valued at IDR 2,606,699,502.00 (two billion six hundred six million six hundred ninety-nine thousand five hundred two Indonesian Rupiah).

The implementation of Good Corporate Governance (GCG) has become a government policy and a requirement by global financial institutions for companies that manage substantial assets or have significant capital circulation. This requirement is particularly important for publicly traded companies, including State-Owned Enterprises (BUMN) and their subsidiaries. The implementation of GCG is not without reason, as it is expected to ensure that companies generate profits and provide maximum benefits to their stakeholders, shareholders, and other relevant parties while adhering to ethical business practices and applicable regulations.

There are seven legal bases regulating the principles of GCG, which have been enacted through Regulation No. 01 of 2011 concerning the Obligation of State-Owned Enterprises (BUMN) to Consistently and Sustainably Implement GCG. The GCG principles covered by this regulation include transparency, accountability, responsibility, independence, and fairness.⁷ landasan hukum yang mengatur tentang prinsip-prinsip GCG telah diundangkan berdasarkan What is equally important, in addition to Regulation No. 01 of 2011, is the application of GCG principles to companies that are not purely State-Owned Enterprises (BUMN) but have ownership or shares held by the government, subsidiaries of State-Owned Enterprises, State-Owned Enterprises whose shares are owned by the public, or other related parties, including State-Owned Enterprises' subsidiaries.

3.1 State Finance

Republic of Indonesia Law Number 17 of 2003 concerning State Finance, in Article 1, defines State Finance as all the rights and obligations of the state that can be valued in monetary terms, as well as all things, both in the form of money and goods, that can be considered state property in connection with the execution of these rights and obligations. The explanation provided in Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Corruption in the general explanation clarifies that State finance refers to all of the state's wealth in any form, whether separated or not, including all parts of state wealth and all rights and obligations arising because: (a) they are in the possession, management, and accountability of state institutional officials, both at the central and regional levels; (b) they are in the possession, management, and accountability of State-Owned Enterprises/Regional-Owned Enterprises, foundations, legal entities, and companies that include state capital, or companies that include third-party capital based on agreements with the State.

Moreover, the concept of National Economics is the economic life organized as a joint effort based on the principles of kinship or independent community effort, based on government policies, both at the central and regional levels, in accordance with the prevailing laws and regulations aimed at benefiting the prosperity and well-being of the entire population.[15]

According to Drs. Siswo Sujanto, DEA, with a background in a Master's Degree in State Financial Law and Taxation from Universite de Paris 2 – Pantheon, France, State Finance, in principle, refers to all the rights and obligations of the state that can be assessed in monetary terms, as well as all things, both in the form of money and goods, that can be considered state property in connection with the execution of the state's functions (governance). The definition

of state finance in the past (before the enactment of Law Number 17 of 2003 concerning State Finance) was regulated in various provisions related to the management/administration of State Finance. At present, this definition is governed by Law Number 17 of 2003 concerning State Finance, Article 1, Clause 1. In line with the underlying concept within Law Number 17/2003 concerning state finance, the idea of state finance and its management is divided into three sub-domains: fiscal management, monetary management, and the management of separated state assets. Money separated from the state, managed and handled by State-Owned Enterprises, is encompassed within the scope of state finance. This is explicitly stated in the explanation of Law Number 17/2003 concerning State Finance and subsequently in Article 2, Letter g.

With reference to the concept laid out in the 1945 Constitution of the Republic of Indonesia, State-Owned Enterprises fundamentally belong to the people. The institutional framework of state-owned enterprises, as a public entity, has a unique pattern. As the property of the people, the authority over their ownership lies entirely in the hands of the people. In this regard, the term "people" refers to legislative bodies, which, constitutionally, represent the people. Nevertheless, for practical reasons, in certain cases, this authority can be exercised by the President. As a result, according to this line of thought, the management structure of State-Owned Enterprises recognizes the existence of two management groups (a two-tier system). The first is the ownership group, which consists of only one element, the government. The second is the technical management group, which comprises two elements: the State/Government as the representative of the owner and the implementing body (agent). Based on this conceptual framework, in the financial management system of the Republic of Indonesia, specifically for State-Owned Enterprises, the role of two Ministers is recognized. The Minister of Finance, in their capacity as the General State Treasurer, represents the owner, and the Minister of State-Owned Enterprises represents the owner as a technical controller. This conceptual framework, fundamentally based on the concept embodied in the 1945 Constitution, is reflected in Law Number 19 of 2003 concerning State-Owned Enterprises.

Republic of Indonesia Law Number 19 of 2003 concerning State-Owned Enterprises, in Article 1, Clause 1, defines State-Owned Enterprises, hereinafter referred to as BUMN, as business entities in which the entire or the majority of capital is owned by the state through direct participation originating from separated state wealth. This definition is further clarified concerning the composition of BUMN shares in Article 1, Clause 2. "Persero" (limited liability company), hereinafter referred to as "Persero," is a State-Owned Enterprise structured as a limited liability company, in which the whole or at least 51% of its shares are owned by the Republic of Indonesia. The main objective is profit generation.

Additionally, Ministerial Regulation of the State Minister of State-Owned Enterprises Number: Per-03/Mbu/2012 concerning Guidelines for the Appointment of Members of the Board of Directors and Members of the Board of Commissioners of Subsidiaries of State-Owned Enterprises, in Article 1, Clause 2, defines Subsidiaries of State-Owned Enterprises as limited liability companies in which the majority of shares are owned by State-Owned Enterprises or limited liability companies controlled by State-Owned Enterprises.

3.2. State Loss

In the general explanation of the Anti-Corruption Law, it is stated that state finance encompasses all of the state's wealth in any form, whether separated or not, including all parts of state wealth

and all rights and obligations that arise due to: (a) being under the control, management, and accountability of state officials at both the central and regional levels; and (b) being under the control, management, and accountability of State-Owned Enterprises/Regional-Owned Enterprises, foundations, legal entities, and companies that include state capital, or companies that include third-party capital based on agreements with the state.[16] Republic of Indonesia Law Number 1 of 2004 concerning the State Treasury, in Article 1, Clause 22, defines State/Regional Loss as the deficiency of money, negotiable instruments, and goods, which are clear and certain in amount as a result of unlawful acts, whether intentional or negligent.

According to Siswo Sujanto, what is meant by state loss is the deficiency of state assets due to unlawful acts by managing officials. In the case of money, the deficiency can occur when money that should have been deposited into the state treasury does not reach it or when money that should not have been disbursed from the state treasury is disbursed, all due to unlawful acts by the managing officials. Concerning assets other than money, the loss can occur when assets that should have been owned by the state are not, or when assets that should have remained under state control become separated from it.

Republic of Indonesia Law Number 40 of 2007 concerning Limited Liability Companies, in Article 97, Clause (5), states that members of the board of directors cannot be held accountable for losses as referred to in Clause (3) if they can prove that they have managed affairs with good faith and prudence for the benefit of and in line with the purpose and objectives of the company. In cases of corruption before being determined as causing a state loss, a calculation is necessary. The calculation of state financial loss is not merely a matter of accounting approaches, addition or subtraction using calculators or other computational tools, as it involves the element of "loss" resulting from actions that violate the law. The calculation of state financial loss needs to be conducted through an investigative examination approach, which is an examination with specific objectives carried out beyond financial and performance audits, aimed at reaching conclusions on specific matters investigated. It is a reactive and in-depth examination aimed at uncovering deviations. In cases where corruption is suspected, the calculation of state financial loss follows the technical guidelines of the State Audit Agency (BPK) and involves three stages: preparation (preparation of examination programs and assignment letters), execution (understanding the case under investigation, evaluating and analyzing evidence), and reporting.[17]

3.3 Control and Supervision Functions in State-Owned Enterprises Financial Management

Republic of Indonesia Law Number 15 of 2006 concerning the State Audit Agency (Badan Pemeriksa Keuangan or BPK) defines the BPK as a state institution tasked with auditing the management and financial responsibilities of the state, as stipulated in the 1945 Constitution of the Republic of Indonesia. The Duties and Authorities Section 1 Duties Article 6 (1) of the BPK includes examining the management and financial responsibilities of the state carried out by the Central Government, Regional Governments, other state institutions, Bank Indonesia, State-Owned Enterprises (Badan Usaha Milik Negara or BUMN), Public Service Agencies, Regional-Owned Enterprises, and other institutions or bodies that manage state finances. (2) BPK's audits, as referred to in paragraph (1), are carried out based on laws regarding the examination of the management and financial responsibilities of the state. (3) BPK's examinations cover financial audits, performance audits, and special-purpose audits. In the execution of its duties and

authorities, BPK of the Republic of Indonesia also conducts audits.

Republic of Indonesia Government Regulation Number 46 of 2022 concerning the State Capital Participation of the Republic of Indonesia for the Establishment of Limited Liability Companies (Perseroan Terbatas or PT) in the Mining Sector states in Article 4 that with the transfer of Series B shares as referred to in Article 3 paragraph (2) letter a, letter b, letter c, and letter d, the Republic of Indonesia exercises control over PT Aneka Tambang Tbk, PT Timah Tbk, PT Bukit Asam Tbk, and PT Indonesia Asahan Aluminium through the ownership of dual-color Series A shares, in accordance with the authority stipulated in the Articles of Association.

Report on the Results of Compliance Audits by the State Audit Agency of the Republic of Indonesia on Income, Expenses, and Investments Management at PT. Timah Tbk and Its Subsidiaries for the Second Half of 2017 to the First Half of 2019 On April 9, 2020, the State Audit Agency of the Republic of Indonesia (BPK RI) conducted a financial audit of PT. Timah Tbk.

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3.4. Indonesian Republic Prosecutor Investigator

A prosecutor is a functional official vested with authority by the law to act as a Public Prosecutor in the execution of court decisions that have acquired legal force, as well as other authorities granted by the law. Article 13 of the Indonesian Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana or KUHAP) states that a Public Prosecutor is a Prosecutor authorized to conduct prosecution and enforce judicial decisions. Furthermore, Article 1 of Law Number 15 of 1961 on the Basic Principles of the Prosecutor's Office (Undang-Undang Nomor 15 Tahun 1961 Tentang Pokok-Pokok Kejaksaan) specifies that the Indonesian Prosecutor's Office, hereinafter referred to as the Prosecutor's Office, primarily functions as a Public Prosecutor in accordance with Article 15 of the KUHAP.

Public Prosecutors have the following Authorities and Duties: Receiving and examining the investigation files from the investigators and their assistants; Initiating prosecution when there are deficiencies in the investigation, in accordance with the provisions of Article 110, paragraph 1, and paragraph 4 of the KUHAP, by providing guidance to improve the examination and investigation; Granting extensions for detention, ordering further detention, or changing detainee status after a case has been transferred by the investigators; Preparing indictments;

Referring cases to the courts; Informing the Defendant about the relevant provisions and the date of the trial, accompanied by summonses for both the Defendant and witnesses to appear at the designated trial, while conducting prosecution; Closing cases in the public interest; Undertaking other actions within the scope of duties and responsibilities as a Public Prosecutor under the law; and Implementing judicial decisions.

In the context of investigating corruption cases, one of the entities authorized to conduct investigations is the Attorney General of the Republic of Indonesia (Kejaksaan Agung Republik Indonesia) or Public Prosecutors.[18] The authority of the Public Prosecutor as an investigator is limited to specific criminal acts, particularly corruption, as stipulated in Article 30, paragraph 1, letter d of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Indonesian Prosecutor's Office, which states that, "In criminal matters, the prosecutor's office has the duty and authority to conduct investigations into specific criminal acts based on the law."

The Constitutional Court Decision Number 16/PUU-X/2012 dated October 8, 2012, declares that the Court rejects the applicants' requests in their entirety, considering that the authority of the police as a sole investigator does not originate from the 1945 Constitution but from laws. The term "in accordance" with criminal procedural law and other legislation allows other law enforcement agencies, such as the Prosecutor's Office, to be granted the authority to conduct investigations. Meanwhile, Article 24, paragraph 3 of the 1945 Constitution states that "other bodies related to the judiciary are regulated by law." The law derived from Article 24, paragraph 3 of the 1945 Constitution includes the Prosecutor's Office Act. Article 30, paragraph 1, letter d of the Prosecutor's Office Act states, "Conducting investigations into specific criminal acts based on the law." Based on the considerations mentioned above, the applicants' requests to declare the investigative authority granted to the Prosecutor's Office in specific criminal acts as contrary to the 1945 Constitution are legally groundless.

Regarding the calculation of state losses in corruption cases, this is the responsibility of the State Audit Agency (Badan Pemeriksa Keuangan or BPK), as explicitly stated in BPK's Regulation Number 04 of 2016. The obstacles faced by prosecutors in the state loss calculation process in corruption cases include a lack of data, uncooperative parties, and slow auditors. Efforts made by prosecutors include improving the managerial system of law enforcement agencies, implementing guidelines for public complaints, and providing training in asset tracing, legal audits, forensic accounting, audit forensics, and public relations for prosecutors.[19]

4 Conclusion

In the process of implementing the tin ore production recovery program, there have been individuals who engaged in reprehensible or unlawful actions with malicious intent, resulting in financial losses for PT. Timah Tbk. This situation can be categorized as a Loss of State Finances, contrary to the laws of the Republic of Indonesia, including the Republic of Indonesia Law Number 17 of 2003 Concerning State Finance, Republic of Indonesia Law Number 31 of 1999 Concerning the Eradication of Corruption Crimes, Republic of Indonesia Law Number 19 of 2003 Concerning State-Owned Enterprises, and Republic of Indonesia Law Number 1 of 2004 Concerning the State Treasury.

The Indonesian Office of the Prosecutor General is empowered to investigate corruption cases

at PT. Timah Tbk since it functions as an extension of the state's legal authority. Additionally, given that the state holds a majority share in PT. Timah Tbk, as indicated by the composition of shares resulting from state capital injections, as outlined in the Republic of Indonesia Government Regulation Number 46 of 2022 Regarding the State of the Republic of Indonesia's Investment in the Establishment of Limited Liability Companies (Persero) in the Mining Sector, the Republic of Indonesia exercises control over PT Timah Tbk through ownership of dual-color Series A shares, in accordance with the provisions set forth in the Articles of Association.

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