

Auction of Confiscated Assets by the Corruption Eradication Commission (KPK) at the Investigation Stage from the Perspective of the Presumption of Innocence

Bayu Praditya Herusantoso, Ali Ahmadi, Bino Aldy Maulana*

Universitas Gadjah Mada, Indonesia

ARTICLE HISTORY

Received : 30 Mai 2024

Accepted : 20 July 2024

Available online : 1 Agustus 2024

KEYWORDS

Auction Procedures; Confiscated Assets;
Presumption of Innocence; Suspect Rights

CORRESPONDENCE

Nama : Bino Aldy Maulana

Email : binoaldymaulana@mail.ugm.ac.id



Copyright: © 2024 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY) license (<http://creativecommons.org/licenses/by/4.0/>).

ABSTRACT

This study examines the procedures for auctioning confiscated assets by the Corruption Eradication Commission (KPK) during the investigation stage and their implications on the rights of suspects from the perspective of the presumption of innocence principle. The method used is normative juridical with a regulatory approach, using secondary data from legal documents and relevant literature. The findings indicate that the auction procedures for confiscated assets are regulated under Government Regulation Number 105 of 2021, covering stages such as preparation, execution, winner determination, asset transfer, and proceeds management. These procedures generally align with the presumption of innocence principle, incorporating measures to ensure suspects' rights are not violated, such as notification and approval from suspects or their representatives, and transparency in the auction process. However, practical challenges such as public perception and the condition of confused assets require further attention. The legal implications include the protection of property rights, the right to justice, and the right to a fair legal process. Recommendations for improving procedures include enhancing coordination with auction officials, providing detailed notification mechanisms, and thorough verification and evaluation of assets.

Introduction

This research discusses the procedures for auctioning confiscated assets by the Corruption Eradication Commission (KPK) during the investigation stage and their implications on the rights of suspects from the perspective of the presumption of innocence principle. The study employs a normative juridical approach, focusing on secondary data from legal documents and relevant literature. The findings of this research highlight how auction procedures are regulated by Government Regulation Number 105 of 2021 and how these procedures adhere to legal principles to protect the rights of suspects.

The Corruption Eradication Commission (KPK) has an important role in efforts to eradicate criminal acts of corruption in Indonesia. One of the steps taken by the Corruption Eradication Committee in carrying out its duties is through the confiscation and auction of confiscated goods. The auction of confiscated goods at this investigation stage is carried out to prevent greater losses due to a decrease in the value of the goods or high storage costs (Sembiring & Manik, 2022). Based on Article 5 paragraph (1) of Government Regulation Number 105 of 2021 concerning Auctions of Confiscated Objects, it is stated that "Auctions of Confiscated Objects at the investigation or prosecution stage

as referred to in Article 3 are carried out as far as possible with the consent of the suspect or his attorney."

The auction of confiscated goods carried out at the investigation stage aims to optimize the recovery of assets obtained from criminal acts of corruption and prevent state losses due to depreciation or high storage costs. Items being auctioned are usually included in the category of being easily damaged, dangerous, or requiring high storage costs. Therefore, this auction step is seen as an effective solution to maintain the economic value of confiscated goods and reduce the state's cost burden (Kurniawan et al., 2022).

The auction of confiscated goods by the Corruption Eradication Committee at the investigation stage has implications for law enforcement in Indonesia, especially in efforts to recover assets resulting from criminal acts of corruption. In the context of criminal law, the auction of confiscated goods is not just a mechanism for managing confiscated goods, but is also part of a strategy to recover state losses and ensure that the proceeds from criminal acts of corruption can be returned to the state (Mariana et al., 2022).

The principle of presumption of innocence is a fundamental principle in the criminal justice system which emphasizes that a person is presumed innocent until proven guilty through a fair judicial process (Anita & Haryati, 2021). In the context of the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage, the application of this principle is very important. This is because the items being auctioned at this stage still have the status of evidence related to the case being investigated, and the owner of the items may not necessarily be proven guilty. Article 1 point 3 letter c General Explanation of the Criminal Procedure Code states that: "Every person who is suspected, arrested, detained, charged, and/or brought before a court hearing, must be considered innocent until a court decision declares his guilt and obtains permanent legal force. "

Carrying out an auction of confiscated goods at the investigation stage can create a dilemma related to the application of the principle of presumption of innocence. On the one hand, auctioning of confiscated goods is necessary to prevent state losses due to a decrease in the value of goods or high storage costs (Sri Sulastri, 2021). However, on the other hand, the auction must be carried out very carefully so as not to give the impression that the suspect has been deemed guilty before a court decision has permanent legal force.

Government Regulation Number 105 of 2021 has regulated a mechanism that seeks to maintain a balance between the need to auction confiscated goods and the application of the principle of presumption of innocence. For example, Article 5 paragraph (2) essentially states that in carrying out auctions at the investigation or prosecution stage, the Corruption Eradication Commission is required to obtain approval from the suspect or his attorney as far as possible. If approval is not obtained, the Corruption Eradication Committee can still continue the auction process based on its authority and

considerations, but with clear notification to the suspect or his attorney regarding the reasons and urgency of carrying out the auction.

Apart from that, in the auction process for confiscated goods, the Corruption Eradication Committee (KPK) must ensure that the auction is carried out in a transparent and accountable manner. This includes announcements of auctions that are open to the public, then Article 8 paragraphs (1) and (2) PP Number 105 of 2021 also regulates the determination of limit values in accordance with the results of objective assessments, in addition to the preparation of auction minutes as authentic evidence of implementation. Auctions are also regulated in Article 15. Thus, it is hoped that the auction of confiscated goods by the Corruption Eradication Commission will continue to comply with the principles of justice and not violate the principle of presumption of innocence.

This research analyzes in depth how the principle of presumption of innocence is applied in the context of the auction of confiscated goods by the Corruption Eradication Committee at the investigation stage. This analysis will include a review of existing regulations, as well as the impact of the auction on the suspect's rights. Thus, this study can make a significant contribution in strengthening the criminal justice system in Indonesia, especially in terms of managing confiscated goods related to criminal acts of corruption.

Previous research has highlighted aspects of the auction of confiscated goods in the context of criminal law. Albert Sembiring and Yohana Br Manik in their research examined the implementation of auctions of confiscated goods carried out by the Corruption Eradication Commission in accordance with Government Regulation Number 105 of 2021. This research explains that the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage aims to prevent greater losses due to a decrease in the value of the goods or high storage costs. This research also highlights several obstacles in carrying out auctions, such as the potential for damage to goods and high maintenance costs, which can harm the interests of both the suspect and the state ([Sembiring & Manik, 2022](#)).

This study differs from previous studies in several important aspects. First, this research focuses on an in-depth analysis of the auction procedures for confiscated goods by the Corruption Eradication Commission at the investigation stage from the perspective of the presumption of innocence. While previous research mostly discussed the technical aspects and obstacles to implementing auctions, this research will specifically examine how the principle of presumption of innocence is applied in the context of auctioning confiscated goods.

Second, this research will also examine the impact of auctioning confiscated goods on the rights of suspects, which has not been discussed in depth in previous research. Thus, this research aims to provide a more comprehensive contribution to the understanding of the

balance between the need to auction confiscated goods and protecting the rights of suspects.

It is hoped that this research can provide several important contributions to the legal discourse regarding the auction of confiscated goods by the Corruption Eradication Committee and the application of the principle of presumption of innocence. First, this research will provide a more comprehensive analysis of the procedures for auctioning confiscated goods by the Corruption Eradication Commission at the investigation stage and how this is in accordance with applicable criminal law principles. Second, this research will present practical recommendations for the Corruption Eradication Commission and policy makers regarding ways to ensure that the auction of confiscated goods does not violate the principle of presumption of innocence. It is hoped that this recommendation will help increase transparency and accountability in the implementation of auctions, as well as provide better protection for the rights of suspects. Third, this research is expected to enrich academic literature by presenting case studies and juridical analysis regarding the auction of confiscated goods by the Corruption Eradication Committee, which can be used as a reference for other researchers and legal practitioners. Thus, it is hoped that this research can make a significant contribution in strengthening the criminal justice system in Indonesia, especially in terms of managing confiscated goods related to criminal acts of corruption.

Based on the background explained above, it is important to analyze how the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage is reviewed from the perspective of the principle of presumption of innocence and what the implications are for the suspect's rights. Therefore, this research will focus on two main problems. First, it will examine the procedures for auctioning confiscated goods by the Corruption Eradication Committee at the investigation stage and how these procedures are viewed from the perspective of the principle of presumption of innocence. Second, it will investigate the legal implications of carrying out an auction of confiscated goods by the Corruption Eradication Commission at the investigation stage for the suspect's rights. This includes an analysis of the impact on suspects' property rights, their right to justice, and their right to a fair legal process. By addressing these aspects, the research aims to provide a comprehensive understanding of the balance between the need to auction confiscated goods to prevent state losses and the necessity to protect the legal rights of suspects during the investigation stage.

Method

The methodology employed in this research involves normative legal studies. The normative legal studies approach may be defined as a research approach that specializes in the analysis of legal regulations (Muhaimin, 2020). By choosing this type of research, the main attention is aimed at solving problems through the application of applicable positive norms and laws, which are then analyzed descriptively. The selection of this type of research aims to enable an in-depth study using positive law, such as the Law, and

theoretical conceptual sources, which are then linked to the issues discussed. In this research, one types of approaches are used, namely a statutory approach. This approach aims to investigate and analyze the problem by referring to legal aspects and theoretical concepts. The method of collecting legal materials used is a literature study, in which legal sources are analyzed using a deductive analysis method that refers to general concepts that are then applied to explain information that has previously been selected.

Result and Discussion

Procedure for Auction of Confiscated Goods by the Corruption Eradication Commission

The auction of confiscated goods by the Corruption Eradication Commission (KPK) is regulated in various laws and regulations which provide a clear legal basis. Government Regulation Number 105 of 2021 concerning Auctions of Confiscated Objects by the Corruption Eradication Commission is the main basis for carrying out this auction. Apart from that, this regulation is also supported by provisions in the Criminal Procedure Code (KUHAP) and Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. Government Regulation Number 105 of 2021 regulates the mechanism for conducting auctions starting from preparation to managing auction results. Article 1 of this regulation explains the definition of confiscated objects, which includes all "objects confiscated by Corruption Eradication Commission investigators in the investigation process for evidentiary purposes in handling cases of criminal acts of corruption or money laundering crimes whose origins are from criminal acts of corruption". Furthermore, this regulation stipulates that auctions can be carried out from the investigation stage for goods that meet certain criteria, such as being easily damaged, dangerous, or requiring high storage costs.

1. Auction Preparation Stage

At the initial stage, the Corruption Eradication Commission must ensure that the confiscated goods to be auctioned meet the criteria set out in the regulations. Items that can be auctioned by the Corruption Eradication Commission are items that are easily damaged, dangerous, or require high storage costs. Determining these criteria is important to ensure that the items can be auctioned for clear reasons and in accordance with applicable regulations. Article 4 paragraph (1) of Government Regulation Number 105 of 2021 states that goods included in this category must be auctioned immediately to prevent state losses.

Before carrying out the auction, the KPK must obtain approval from the suspect or his attorney. This procedure includes notifying the suspect regarding the auction plan and the reasons behind holding the auction. If approval is not obtained, the Corruption Eradication Committee can still continue the auction with clear notification to the suspect or his attorney regarding the reasons and urgency of holding the auction. Article 6 of Government Regulation Number 105 of 2021 regulates that the investigator or public

prosecutor must provide written notification to the suspect or his attorney no later than 7 days from the receipt of the response letter from the suspect or his attorney.

2. Auction Implementation

The auction implementation process is carried out by the Corruption Eradication Commission with the assistance of the Auction Officer who is the official authorized to conduct auctions. The auction is held openly to the public with an announcement that has been distributed beforehand. This is important to ensure transparency in the implementation of the auction and provide equal opportunities for all interested parties to participate. Article 11 of Government Regulation Number 105 of 2021 states that "the announcement of the auction of confiscated objects is in accordance with the provisions of statutory regulations".

The auction announcement includes complete information regarding the items to be auctioned, the limit value, time and place of the auction. In the auction process, price offers are made competitively, both in writing and orally, to achieve the highest price. The Auction Officer is tasked with leading the auction process and ensuring that all procedures are carried out in accordance with applicable regulations, emphasizing that the auction must be carried out with the principles of transparency and accountability.

3. Determination of Winners and Delivery of Goods

After the auction is finished, the Auction Officer determines the auction winner who offers the highest price. The auction winner is then required to make payment according to the value determined in the auction. After payment is made, the confiscated items are handed over to the auction winner. This handover is accompanied by a handover report signed by both parties as official proof of the auction.

4. Management of Auction Results

The results of the auction of confiscated goods are then managed by the Corruption Eradication Commission in accordance with applicable regulations. The results of this auction can be used to recover state losses resulting from criminal acts of corruption or for KPK operational costs related to the implementation of its duties and functions. Management of auction results is carried out with high transparency and accountability to ensure that the funds obtained from the auction are used in accordance with the stated objectives. In accordance with Article 18 of Government Regulation Number 105 of 2021, auction results must be deposited into the Corruption Eradication Commission account no later than 3 (three) working days after receipt of payment from the buyer.

Analysis of the Suitability of the Auction Procedure in the Perspective of the Presumption of Innocence Principle

1. Principle of Presumption of Innocence

The principle of presumption of innocence is a fundamental principle in the criminal justice system which states that a person is presumed innocent until proven guilty through

a fair judicial process. This principle requires that every action taken during the investigation process must pay attention to the rights of suspects and must not consider them guilty before a court decision has permanent legal force. (Remaja, 2019). The principle of presumption of innocence is regulated in Article 8 of the Universal Declaration of Human Rights (UDHR) and Article 14 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by Indonesia through Law Number 12 of 2005. In the context of national law, this principle is stated in Article 8 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power and Article 1 paragraph (3) of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).

2. Auction Procedures for Confiscated Goods in the Perspective of the Presumption of Innocence Principle

In the context of the auction of confiscated goods by the Corruption Eradication Committee at the investigation stage, the application of the principle of presumption of innocence must be considered carefully. The procedures regulated in Government Regulation Number 105 of 2021 include steps to ensure that the auction does not violate the suspect's rights.

Approval from the suspect or his proxy: One important step is the KPK's obligation to obtain approval from the suspect or his proxy before carrying out the auction. This process gives the suspect the opportunity to find out and agree to the reasons behind the auction. Although this approval is not always necessary if there is an urgent reason, clear notification to the suspect or his attorney must still be made. Article 5 paragraph (5) and Article 6 of Government Regulation Number 105 of 2021 state that if the suspect or his attorney does not give consent, the Corruption Eradication Commission Investigator or Public Prosecutor must provide written notification regarding the reasons for holding the auction.

Transparency and accountability: The auction is carried out openly with announcements that have been disseminated beforehand. This transparency is important to ensure that the auction is conducted fairly and that all interested parties have an equal opportunity to participate. The Auction Officer who leads the auction process is also responsible for ensuring that all procedures are carried out in accordance with applicable regulations, so that there are no actions that are detrimental to the suspect.

Management of auction results: Management of auction results is carried out with high transparency and accountability. Funds obtained from the auction are used to recover state losses or for KPK operational costs related to the implementation of its duties and functions. This management is important to ensure that the auction proceeds are used according to the stated objectives and there is no misuse of funds. Article 18 of Government Regulation Number 105 of 2021 regulates that auction proceeds must be deposited into the state treasury and used in accordance with applicable regulations, with the aim of preventing misuse of funds.

3. Challenges in Implementing Auctions of Confiscated Goods

Even though the procedures that have been regulated aim to maintain compliance with the principle of presumption of innocence, the implementation of the auction of confiscated goods at the investigation stage still faces several challenges.

Public perception: One of the main challenges is public perception regarding the management of state confiscated objects (Sugiarto, 2019). Apart from that, there could be a public perception that the suspect could be considered guilty if the confiscated items are auctioned before a court decision has permanent legal force. This perception can harm the suspect and create a negative social stigma. Therefore, it is important for the Corruption Eradication Commission to transparently explain the reasons behind the auction and ensure that all procedures are carried out in accordance with the law. Article 5 and Article 6 of Government Regulation Number 105 of 2021 regulate that the Corruption Eradication Commission must provide clear and detailed notification regarding the reasons for holding an auction to the public to avoid misunderstandings and negative perceptions.

Condition of confiscated goods: Confiscated goods that are easily damaged or dangerous require immediate action to prevent greater losses (Lestari et al., 2020). In this condition, an auction of confiscated goods may be necessary even though there has not been a court decision that has permanent legal force. However, this step must be taken with extreme caution and with clear notification to the suspect or his attorney. Article 4 paragraph (1) of Government Regulation Number 105 of 2021 regulates that goods included in this category must be auctioned immediately to prevent greater losses, while still paying attention to the suspect's rights.

Suspects' rights: The auction must ensure that the suspects' rights are protected. This includes the right to know and approve the auction, the right to receive clear notification of the reasons for the auction, and the right to receive compensation if the items being auctioned are not related to the criminal offense charged.

4. Implementation of Regulations and Practical Challenges

Practical challenges that must be faced by the Corruption Eradication Commission in carrying out auctions of confiscated goods at the investigation stage as implementation of Government Regulation Number 105 of 2021 by ensuring that the entire auction process is carried out in accordance with applicable regulations and does not violate the suspect's rights.

Coordination between the KPK and Auction Officials: The KPK must ensure good coordination with the Auction Officials to ensure that all auction procedures are carried out in accordance with applicable regulations. This includes ensuring that auction announcements are made correctly, price offers are competitive, and goods are delivered on time. Article 9 of Government Regulation Number 105 of 2021 regulates that the Corruption Eradication Commission as the seller must cooperate with the State Auction

Office to ensure that all auction procedures are carried out in accordance with applicable regulations.

Management of Confiscated Goods: Confiscated goods that are easily damaged or require high storage costs must be managed properly so as not to cause further losses (Sugiarto, 2019). The Corruption Eradication Commission must ensure that these items are stored in a safe place and in accordance with applicable regulations. Apart from that, the Corruption Eradication Committee must also ensure that the auction process is carried out as quickly as possible to prevent damage or reduction in the value of confiscated goods. Article 4 paragraph (1) Government Regulation Number 105 of 2021 regulates that goods that are easily damaged, dangerous or have too high storage costs must be auctioned immediately to prevent further losses.

Legal certainty for suspects: Suspects must be given legal certainty that the confiscated items being auctioned will not harm their rights if they are ultimately found not guilty. The Corruption Eradication Commission must ensure that the entire auction process is carried out with high transparency and accountability to avoid accusations of abuse of authority or violations of human rights. Article 13 of Government Regulation Number 105 of 2021 regulates that suspects or their proxies must be given written notification regarding the implementation of the auction and the reasons behind the implementation, as well as the right to submit an objection if there is a violation of their rights in article 14.

5. Legal Implications of Auction Implementation on Suspects' Rights

The implementation of the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage has legal implications for the suspect's rights. These implications cover various aspects, such as the protection of property rights, the right to obtain justice, and the right to a fair legal process. Here are some legal implications to be aware of:

Ownership Rights: Auctioning confiscated items at the investigation stage can interfere with the suspect's ownership rights, especially if the suspect is ultimately found not guilty (Sulistono, 2019). To overcome this, the Corruption Eradication Committee must ensure that the auction process is carried out with the consent of the suspect or his attorney and that the suspect is given fair compensation if the items being auctioned are not related to the crime charged.

Right to justice: Suspects also have the right to justice (Darwis, 2013). The auction of confiscated goods must be carried out in a fair and transparent manner. The suspect must be given the opportunity to find out and agree to the reasons behind the auction and must be given clear information regarding the auction process. This is important to ensure that suspects feel that their rights are respected during the investigation process. Article 13 and Article 14 of Government Regulation Number 105 of 2021 regulate that suspects or their proxies must be given written notification regarding the implementation of the auction

and the reasons behind the implementation, as well as the right to submit an objection if there is a violation of their rights.

Right to a fair legal process: Suspects must be given the right to a fair legal process and must not be considered guilty before a court decision has permanent legal force (Asnatuti & Ibrahim, 2019). The auction of confiscated goods at the investigation stage must be carried out very carefully to ensure that there are no actions that violate the suspect's rights or create the perception that the suspect is deemed guilty.

Supervision and accountability: The Corruption Eradication Committee must ensure that the entire auction process is closely monitored to prevent abuse of authority or violations of suspects' rights. This supervision includes ensuring that all auction procedures are carried out in accordance with applicable regulations and that auction results are managed with high transparency and accountability. Article 17 of Government Regulation Number 105 of 2021 regulates that the technical procedures for auctions must be carried out in accordance with the provisions of statutory regulations. The entire auction process is carried out transparently and accountably, with the aim of protecting the suspect's rights.

The implementation of the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage is an important step in efforts to eradicate criminal acts of corruption in Indonesia. However, this process must be carried out very carefully to ensure that the suspect's rights remain protected and that the auction does not violate the principle of the presumption of innocence. By understanding and implementing the procedures regulated in statutory regulations, the Corruption Eradication Commission can ensure that the auction is carried out effectively, fairly and in accordance with applicable legal principles.

Legal Implications of the Auction of Confiscated Goods by the Corruption Eradication Committee at the Investigation Stage regarding Suspects' Rights

Impact of the Law on the Auction of Confiscated Goods on the Rights of Suspects

1. Protection of Ownership Rights

The auction of confiscated goods at the investigation stage has a direct impact on the suspect's ownership rights. Property rights are one of the human rights protected by national and international law (Sulistono, 2019). In Indonesia, ownership rights are regulated in Article 28H paragraph (4) of the 1945 Constitution which states that every person has the right to private ownership and this right cannot be taken over arbitrarily by anyone. In this context, the auction of confiscated goods by the Corruption Eradication Commission must pay attention to the protection of the suspect's ownership rights. The protection of a suspect's ownership rights may be disrupted if the confiscated goods are auctioned before a court decision has permanent legal force. Suspects who have not been proven guilty have the right to retain

ownership of their property until a final decision is made by the court. Therefore, the Corruption Eradication Commission must ensure that the auction of confiscated goods is carried out with the consent of the suspect or his attorney and that the suspect's rights are protected during the auction process.

2. Right to Obtain Justice

The auction of confiscated goods must be carried out in a fair and transparent manner to ensure that suspects feel that their rights are respected during the investigation process. The right to obtain justice is one of the basic principles in the criminal justice system which aims to ensure that every individual receives fair and non-discriminatory treatment before the law (Darwis, 2013). This right is guaranteed by Article 28D paragraph (1) of the 1945 Constitution which states that every person has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law. Transparency and accountability in the auction process: To ensure that the auction is carried out fairly, the Corruption Eradication Commission must prioritize transparency and accountability at every stage of the auction process. This includes clear and detailed notification to the suspect regarding the reasons for holding the auction, announcement of the auction being open to the public, and the auction being held competitively. In this way, suspects can feel confident that their rights are respected and the auction process is conducted fairly.

Participation of suspects in the auction process: Suspects must be given the opportunity to participate in the auction process, either by giving approval for the auction or by submitting objections if there are actions that are considered detrimental to their rights. Government Regulation Number 105 of 2021 regulates that the suspect or his attorney must be given written notification regarding the auction and the reasons behind the auction. Active participation from the suspect can help ensure that the auction process is carried out in a fair manner and does not harm any party.

3. Right to Fair Legal Process

Suspects must be given the right to a fair legal process and must not be considered guilty before a court decision has permanent legal force (Asnatuti & Ibrahim, 2019). The right to a fair legal process is a key principle in the criminal justice system which aims to ensure that every individual is treated fairly and is not discriminated against before the law. This principle is stated in Article 14 paragraph (1) of the International Covenant on Civil and Political Rights (ICCPR) and has been adopted in national law through Law Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights. -Civil and Political rights.

Providing notification and the right to raise objections: In carrying out an auction of confiscated goods, the suspect must be given written notification regarding the auction and the reasons behind the auction. This notification must include clear and detailed information regarding the items to be auctioned, the limit value, time and place of the auction. In addition, suspects must also be given the right to file objections if any action is deemed to violate their rights. Government Regulation Number 105 of 2021 regulates

that suspects or their proxies must be given the opportunity to submit objections in writing before the auction is held.

Supervision and accountability in the implementation of auctions: The Corruption Eradication Commission must ensure that the entire auction process is strictly supervised to prevent abuse of authority or violations of suspects' rights. This supervision includes ensuring that all auction procedures are carried out in accordance with applicable regulations and that auction results are managed with high transparency and accountability. Article 17 of Government Regulation Number 105 of 2021 regulates that the technical procedures for auctions must be carried out in accordance with the provisions of statutory regulations. The entire auction process is carried out transparently and accountably, with the aim of protecting the suspect's rights.

Legal Impact and Alternative Solutions

1. Protection of Ownership Rights

Carrying out an auction of confiscated goods at the investigation stage can interfere with the suspect's ownership rights, especially if the suspect is ultimately found not guilty. To overcome this, the Corruption Eradication Committee must ensure that the auction process is carried out with the consent of the suspect or his attorney and that the suspect is given fair compensation if the items being auctioned are not related to the crime charged. Apart from that, the Corruption Eradication Commission can also consider alternative solutions to protect the suspect's ownership rights, such as reassessing the value of the items to be auctioned or postponing the auction until there is a court decision that has permanent legal force.

2. Right to Obtain Justice

The auction of confiscated goods must be carried out in a fair and transparent manner to ensure that suspects feel that their rights are respected during the investigation process. To ensure fairness in the auction process, the Corruption Eradication Committee (KPK) must provide clear and detailed notification to suspects regarding the reasons for the auction, announcement of the auction being open to the public, and the auction being held competitively. Apart from that, the Corruption Eradication Commission can also consider alternative solutions to ensure fairness in the auction process, such as giving suspects the opportunity to submit objections before the auction is held or re-verifying the assets to be auctioned.

3. Right to Fair Legal Process

Suspects must be given the right to a fair legal process and must not be considered guilty before a court decision has permanent legal force. To ensure a fair legal process, the Corruption Eradication Committee must provide written notification regarding the auction and the reasons behind the implementation, as well as the right to submit objections if any action is deemed to violate their rights. Apart from that, the Corruption Eradication Commission can also consider alternative solutions to ensure a

fair legal process, such as re-evaluating the value of the assets to be auctioned or postponing the auction until there is a court decision that has permanent legal force.

4. Supervision and Accountability in Auction Implementation

The Corruption Eradication Commission must ensure that the entire auction process is closely monitored to prevent abuse of authority or violations of suspects' rights. This supervision includes ensuring that all auction procedures are carried out in accordance with applicable regulations and that auction results are managed with high transparency and accountability. Apart from that, the Corruption Eradication Commission can also consider alternative solutions to increase supervision and accountability in the implementation of auctions, such as involving an independent third party to audit the auction process or forming an auction supervision committee consisting of various related parties.

The implementation of the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage is an important step in efforts to eradicate criminal acts of corruption in Indonesia. However, this process must be carried out very carefully to ensure that the suspect's rights remain protected and that the auction does not violate the principle of the presumption of innocence. By understanding and implementing the procedures regulated in statutory regulations, as well as considering appropriate alternative solutions, the Corruption Eradication Commission can ensure that the auction is carried out effectively, fairly and in accordance with applicable legal principles. The implementation of the auction of confiscated goods by the Corruption Eradication Commission at the investigation stage has a significant legal impact on the rights of suspects. Therefore, it is important for the Corruption Eradication Committee to continue to improve auction procedures and ensure that all actions taken are in accordance with the principles of justice and do not violate the rights of suspects. In this way, the auction of confiscated goods can be carried out effectively and fairly, and make a positive contribution to efforts to eradicate criminal acts of corruption in Indonesia.

Conclusion

Based on the analysis that has been carried out, there are two main conclusions that can be drawn. First, related to the auction procedures for confiscated goods by the Corruption Eradication Commission at the investigation stage from the perspective of the principle of presumption of innocence. The procedures for auctioning confiscated goods by the Corruption Eradication Commission are regulated in detail in Government Regulation Number 105 of 2021, which includes the stages of preparation, implementation, determining the winner, handing over the goods and managing the auction results. This auction takes into account the criteria for goods that are easily damaged, dangerous or

require high storage costs. This procedure also involves notifying the suspect or his attorney as well as announcing the auction which is open to the public. Research shows that in general, this auction procedure is in accordance with the principle of the presumption of innocence, with the Corruption Eradication Committee implementing measures to ensure that the auction does not violate the suspect's rights, including notification and approval from the suspect or his attorney, as well as transparency and accountability in the auction implementation. . However, there are still several practical challenges, such as public perception and the condition of confiscated items, that require further attention. Second, regarding the legal implications of carrying out an auction of confiscated goods on the rights of suspects. The implementation of the auction of confiscated goods by the Corruption Eradication Committee at the investigation stage has a significant legal impact on the rights of suspects, including the protection of ownership rights, the right to justice and the right to a fair legal process. The auction of confiscated goods can interfere with the suspect's ownership rights, especially if the suspect is ultimately found not guilty. Likewise, the right to justice will have implications, especially if the auction process is not carried out with high transparency and accountability. In addition, the right to fair legal process must be maintained by providing clear notice and the right to object. The analysis that has been carried out shows the importance of supervision and accountability in the implementation of auctions to prevent abuse of authority or violations of suspects' rights.

As a recommendation, several steps can be considered to support the smooth auction procedures for confiscated goods by the Corruption Eradication Commission. First, the Corruption Eradication Committee needs to improve coordination with Auction Officials to ensure that all auction procedures are carried out in accordance with applicable regulations. Second, a notification and approval mechanism from the suspect or his attorney can be considered by providing more detailed information regarding the reasons for holding the auction and providing sufficient time for the suspect to submit objections. Third, the KPK can ensure that the entire auction process is carried out with high transparency and accountability, including auction announcements that are open to the public and the implementation of competitive auctions. Fourth, careful verification and evaluation of the assets to be auctioned must be carried out to ensure that the items being auctioned are indeed related to the criminal offense charged.

Apart from that, several policy proposals also need to be considered to protect the rights of suspects in accordance with the principle of presumption of innocence. First, the government needs to establish policies that ensure that suspects whose goods are auctioned and are later found not guilty are entitled to fair compensation. Second, the establishment of an independent supervisory body tasked with supervising the implementation of auctions of confiscated goods by the Corruption Eradication Commission can help ensure that the entire auction process is carried out in accordance

with applicable regulations and that the rights of suspects are protected. Third, the government needs to develop an effective complaint mechanism for suspects who feel their rights have been violated during the auction process. Fourth, for certain cases, especially those involving items with very high or controversial values, the Corruption Eradication Commission may consider postponing the auction until there is a court decision that has permanent legal force. Lastly, the Corruption Eradication Commission needs to increase public outreach and education regarding auction procedures for confiscated goods and the importance of the presumption of innocence to reduce negative perceptions and increase public understanding of a fair and transparent auction process. With this proposed recommendation, it is hoped that the Corruption Eradication Commission can increase effectiveness and fairness in the implementation of auctions of confiscated goods and ensure that the rights of suspects remain protected in accordance with the principle of presumption of innocence in order to make a positive contribution to efforts to eradicate criminal acts of corruption in Indonesia and strengthen public trust in enforcement law in Indonesia.

Reference

- Anita, F., & Haryati, S. (2021). *Asas Praduga Tak Bersalah dalam Penyelenggaraan Peradilan Pidana. Vol.8.*
- Asnatuti, A., & Ibrahim, I. (2019). Peran Penasehat Hukum dalam Membantu Tersangka pada Penyidikan Guna Terciptanya Proses Hukum yang Adil. *Legalitas: Jurnal Hukum, 10*(1), 66. <https://doi.org/10.33087/legalitas.v10i1.157>
- Darwis, N. (2013). *Penegakkan Hukum untuk Memperoleh Hak atas Keadilan. Vol.3*(2).
- Kurniawan, F., Alghazali, M. S. D., & Fadhila, A. (2022). Determinasi Upaya Pemulihan Kerugian Keuangan Negara Melalui Peran Kejaksaan terhadap Perampasan Aset Tindak Pidana Korupsi. *Jurnal Hukum Lex Generalis, 3*(7), 565–588. <https://doi.org/10.56370/jhlg.v3i7.279>
- Lestari, R., Trisna, N., & Effida, D. Q. (2020). Tanggung Jawab Rumah Penyimpanan Benda Sitaan Negara Dalam Pengelolaan Benda Sitaan Dan Barang Rampasan Hasil Tindak Pidana. *Ius Civile: Refleksi Penegakan Hukum dan Keadilan, 4*(2). <https://doi.org/10.35308/jic.v4i2.2695>
- Mariana, D., Saragih, B. O. N., & Maulana, Q. C. (2022). Penyitaan Aset sebagai upaya Pemulihan Aset (Asset Recovery) dalam Rangka Pemulihan Kerugian Keuangan Negara. *JIIP - Jurnal Ilmiah Ilmu Pendidikan, 5*(8), 2928–2935. <https://doi.org/10.54371/jiip.v5i8.772>
- Muhaimin. (2020). *Metode Penelitian Hukum.: Vol. Cetakan I.* Mataram University Press.
- Remaja, I. N. G. (2019). Penerapan Asas Praduga Tak Bersalah Bagian Dari Perlindungan Hak Asasi Manusia Yang Harus Dijamin Oleh Negara. *Kertha Widya, 6*(1). <https://doi.org/10.37637/kw.v6i1.293>
- Sembiring, A., & Manik, Y. B. (2022). Tinjauan Yuridis Terkait Pelelangan Barang Sitaan Yang Dilakukan Oleh Kpk (Dikaitkan Dengan Peraturan Pemerintah Nomor 105

- Tahun 2021 Tentang Lelang Benda Sitaan Komisi Pemberantasan Korupsi). *Jurnal Res Justitia: Jurnal Ilmu Hukum*, 2(2), 395–405. <https://doi.org/10.46306/rj.v2i2.49>
- Sri Sulastri, N. H. &. (2021). Pelelangan Dan Penjualan Langsung Benda Sitaan Dalam Perkara Pidana. *Jurnal Yustitia*, 22(1). <https://doi.org/10.53712/yustitia.v22i1.1113>
- Sugiarto, T. (2019). *Tinjauan Tentang Pelaksanaan Pengelolaan Benda Sitaan Negara Dan Barang Rampasan Negara Di Rumah Penyimpanan Benda Sitaan Negara (Rupbasan) Probolinggo*.
- Sulistono, E. (2019). Perlindungan Hukum Atas Hak-Hak Tersangka Pada Proses Penyidikan Perkara Pidana Dalam Perspektif Hak Asasi Manusia. *MIZAN, Jurnal Ilmu Hukum*, 8(2), 96. <https://doi.org/10.32503/mizan.v8i2.672>