

The Effectiveness of the Duties and Authorities of Regional Heads in Handling Regional Losses in South Bolaang Mongondow Regency

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Abstract

This study discusses the effectiveness of the implementation of the duties and authorities of regional heads in handling regional losses in South Bolaang Mongondow Regency from the perspective of state administrative law. Based on the provisions of laws and regulations, especially Law Number 23 of 2014 concerning Regional Government and Government Regulation Number 38 of 2016 concerning Procedures for Claiming Regional Compensation for Non-Treasurer Civil Servants or Other Officials, regional heads have a central role in the process of settling regional losses. This study uses a normative juridical method with a legislative approach and concrete cases in the area. The results of the study show that the implementation of the duties and authorities of regional heads in handling regional losses has not run optimally due to structural constraints, weak internal supervision, and lack of understanding of the apparatus regarding the mechanism of claiming compensation. Therefore, it is necessary to strengthen implementing regulations, increase the capacity of apparatus, and optimize the function of regional inspectorates as part of the internal supervision system of local governments.

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1. INTRODUCTION

In the framework of the implementation of autonomous regional government, regional heads play a strategic role as holders of regional financial management power, as mandated in Law Number 23 of 2014 concerning Regional Government which affirms that regional heads are responsible for the implementation of good governance, including the management of regional finances in a transparent, accountable, and free from deviant practices that can be causing losses to regional finances.

Chapter XI which outlines the Management of State/Regional Losses in Law Number 1 of 2004 concerning State Finance, Article 59 paragraph (1) emphasizes that all losses experienced by the state or region as a result of unlawful acts or negligence of a person must be immediately addressed in accordance with the applicable law.

Therefore, this State Treasury Law emphasizes that the guilty party is obliged to compensate all state or local losses caused by the unlawful acts or negligence of a person. This is explained in Article 59 paragraph (2) of Law Number 1 of 2004 concerning the State Treasury which states that the Treasurer, civil servant who is not a treasurer, or other official who, because of his actions violates the law or neglects the obligations imposed on him, directly harms the state finances, is obliged to compensate for the loss.

This State Treasury Law also regulates provisions regarding the settlement of state/regional losses, which are explained in Article 60 paragraph (2). This provision states that as soon as the state loss is identified, the treasurer, non-treasurer civil servant, or other official who is proven to have violated the law or was negligent in carrying out his duties, as referred to in Article 59 paragraph (2) of Law Number 1 of 2004 concerning the State Treasury, stated that he must be asked to make a statement of ability and/or acknowledgment that the loss is his responsibility and willing to replace it. Furthermore, in paragraph (3) it is stipulated that if the absolute responsibility certificate is not possible to obtain or cannot guarantee the return of state losses, the minister or the head of the relevant institution must immediately issue a decree imposing temporary compensation on the party concerned. This settlement aims to recover state/regional losses.

The problem of regional losses, which arise due to unlawful acts, negligence, or administrative violations by local government officials, is a crucial legal issue, because it is directly related to the effectiveness of internal supervision, compliance with state administrative laws, and integrity in the implementation of government duties.

Regional losses themselves are defined as a lack of money, securities, or goods, which are real and definite in amount as a result of unlawful acts either intentionally or due to negligence by civil servants who are not treasurers or other officials in charge of managing regional finances.

Regional heads, in this context, not only have administrative duties, but also hold the legal authority to determine the amount of regional losses and follow up on the settlement of these losses through a compensation claim mechanism in accordance with the provisions of Government Regulation Number 38 of 2016 concerning Procedures for Regional Compensation Claims for Non-Treasurer Civil Servants or Other Officials.

However, in practice, the implementation of these duties and authorities in various regions, including South Bolaang Mongondow Regency, often faces obstacles, both in terms of legal, institutional, and human resource substance, which results in the slow process of resolving regional losses and the low rate of return of losses to the regional treasury.

In addition, the lack of understanding of the apparatus regarding the procedure for claiming compensation, the weak coordination between regional heads and the inspectorate as the government's internal supervisory apparatus, and the lack of maximum use of legal instruments in determining the party responsible for losses, further strengthen the importance of studying the effectiveness of the implementation of the duties and authorities of regional heads in handling this problem.

Therefore, this study aims to analyze the extent to which the regional head of South Bolaang Mongondow Regency carries out his duties and authority in handling regional losses effectively, as well as identifying inhibiting factors and legal solutions that can be applied to increase the effectiveness of comprehensive regional loss settlement.

2. RESEARCH METHODS

This research uses a normative-empirical type of research, which is a research method that in this case combines normative legal elements which are then supported by the addition of data or empirical elements. In this normative-empirical research method, it is also about the implementation of normative legal provisions (laws) in their actions in every specific legal event that occurs in a society.

3. RESULTS OF RESEARCH AND DISCUSSION

a. Implementation of the Duties and Authorities of Regional Heads in Handling Regional Losses

Regional heads, within the framework of an autonomous local government system, have a strategic position as the holder of regional financial management power who is fully responsible for the use of the budget, program implementation, and protection of regional assets from potential losses that may occur as a result of administrative errors, negligence, or unlawful acts committed by local government officials, both individually and institutionally. as stipulated in Article 65 paragraph (1) letter c of Law Number 23 of 2014 concerning Regional Government which emphasizes that regional heads are in charge of leading the implementation of government affairs that are the authority of autonomous regions, including the management of regional finances in an accountable and transparent manner.

In the context of settling regional losses, regional heads have formal authority which is regulated in more detail in Government Regulation Number 38 of 2016 concerning Procedures for Claiming Regional Compensation for Non-Treasurer Civil Servants or Other Officials, where regional heads play a role in determining the amount of regional losses, determining who is responsible for the occurrence of these losses, and follow up on the settlement of losses by administrative means in the form of collection or through legal channels if necessary. The implementation of this authority is carried out with the support of the Regional Inspectorate as the Government Internal Supervisory Apparatus (APIP) which conducts examinations, clarifications, and investigative audits to determine the elements of losses and responsible parties.

However, in the practice of implementation in the regions, especially in South Bolaang Mongondow Regency, the implementation of the authority of regional heads in handling regional losses still faces various fundamental problems, both in terms of regulatory implementation and in institutional aspects, which have implications for the non-optimal settlement of regional loss cases. The results of the audit by the Financial Audit Agency (BPK) show that some of the findings of regional losses that have been recommended for follow-up are not fully processed by the regional head in accordance with applicable legal procedures, and even in some cases there is inaction in issuing a Regional Loss Determination Decree (SKPKD) against the responsible party.

The delay in the implementation of this authority is not only caused by administrative technical problems, but also influenced by the low understanding of regional heads and implementing apparatus of the legal provisions that govern the mechanism of claiming compensation, as well as the lack of synergy between regional heads and the Inspectorate and Regional Finance Agencies in forming an effective and integrated loss handling system. In addition, the lack of sanctions or firm action from regional heads against apparatus that is proven to be detrimental to regional finances gives the impression that the process of resolving losses is only an administrative formality, not a form of law enforcement that can have a deterrent effect.

Furthermore, within the framework of state administrative law, the implementation of the authority of regional heads in handling regional losses should be seen as part of the government's internal supervision function which aims to protect state finances from irregularities, as well as as a form of accountability attached to the regional head as the holder of the people's mandate. In practice, the role of regional heads should not only be passive in following reports, but also proactive in ensuring that all local government apparatus understand the legal risks of the losses incurred and that any losses are followed up through the applicable legal mechanisms. This is as emphasized by I Gde Pantja Astawa who stated that in the modern state administrative

system, every administrative action must be based on the principles of legality, accountability, and legal certainty, including in handling state or regional losses.

Thus, the implementation of the duties and authorities of regional heads in handling regional losses should not only be understood as a bureaucratic routine, but as an administrative legal effort that prioritizes the principles of efficiency, effectiveness, and responsibility of public office. Therefore, to increase its effectiveness, it is necessary to strengthen technical regulations, increase the capacity of supervisory institutions, and affirm administrative sanctions for negligence or neglect in settling regional losses, so that regional heads really carry out their role as protectors of regional assets and finances optimally in accordance with the principles of good governance.

b. Factors that hinder the settlement of District Losses

Although normatively regional heads have clear and firm authority in handling regional losses as stipulated in Government Regulation Number 38 of 2016, but in its implementation in various regions, including in South Bolaang Mongondow Regency, the settlement of regional losses often does not run effectively and efficiently due to various interrelated inhibiting factors, both from a legal aspect. institutional, technical, administrative, and human resources involved in the process.

1. Regulatory Factors and Legal Substance

is still the main obstacle in resolving regional losses. Although there has been a legal umbrella in the form of government regulations and ministerial regulations, there is still a gap in norms or indecisiveness in terms of the mechanism for delegating responsibility, deadlines for settlement, and the enforcement of sanctions against officials who are proven to cause regional losses but do not show good faith to replace them. This causes regional heads to hesitate or even be reluctant to take firm action for fear of being considered beyond authority or contrary to the principle of prudence in government administration.

2. Low capacity and competence of the Government Internal Supervision Apparatus (APIP)

especially the Regional Inspectorate, is a significant factor that affects the quality of audit results and recommendations on regional losses. Many supervisory apparatus in the regions do not have an adequate legal or public financial background, so often the reports of internal audit results are not strong enough juridically to be used as the basis for the issuance of a Regional Loss Determination Decree (SKPKD) by regional heads. As a result, the process of resolving losses has been hampered from the initial stage, namely in the process of clarifying and determining the elements of loss.

3. Lack of coordination between regional heads and related technical institutions

such as the Regional Finance Agency (BKD), the Inspectorate, and the legal section of local governments, causing the settlement of losses to be slow and not systemically integrated. Ideally, the process of handling regional losses is carried out cross-functionally and based on a solid government internal control system (SPIP), but in practice, each institution works partially and there is often overlap of authority and data inconsistency between agencies.

4. Bureaucratic culture and apparatus mentality

hindering the effectiveness of regional loss settlement. In many cases, regional heads and technical officials tend to be permissive towards losses committed by fellow officials or employees, especially if they are based on close relationships, political loyalty, or other non-juridical considerations. This makes the settlement of losses not driven by the principle of administrative justice, but rather by internal

compromises that are not based on law, thus undermining the principle of accountability in regional financial management.

5. Lack of supervision from external institutions

such as the DPRD, BPK, or even civil society, causing the process of resolving regional losses to run without sufficient public pressure. In fact, transparency and public participation in supervising regional financial management are an important part of the principles of good governance. When social control does not work, there will be more room for neglect and negligence in the settlement of losses.

It can be concluded that the settlement of regional losses is not only a formal legal issue, but also concerns governance, office ethics, institutional capacity, and the political commitment of regional heads to uphold the principle of accountability. Therefore, a holistic approach is needed to address these barriers, including regulatory reform, human resource capacity building, strengthening internal and external supervisory functions, and building a legal culture oriented towards integrity and accountability.

4. CONCLUSION

The implementation of the duties and authorities of regional heads in dealing with regional losses in South Bolaang Mongondow Regency normatively has a clear legal basis, but in practice it has not been effective. Regional heads have not optimally exercised their authority in determining, following up, and resolving regional losses in accordance with applicable regulations. Inhibiting factors in the settlement of regional losses include weak legal and technical understanding of the apparatus, low internal supervision capacity, lack of coordination between agencies, and a bureaucratic culture that is permissive towards irregularities. Therefore, it is necessary to strengthen technical regulations, increase the capacity of human resources, and the commitment of regional heads to uphold the principles of accountability and good governance.

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