

# Legal Protection of Seized Items in the State Seized Property Storage House in Criminal Cases

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**Abstract.** Legal protection for Indonesian citizens is constitutionally guaranteed under Article 28D paragraph (1) of the 1945 Constitution, ensuring equality before the law. However, in practice, the management of state-seized assets stored in Rupbasan (State Seized Property Storage House) remains inadequate. This study adopts a normative legal research method with a qualitative, descriptive-analytical approach to examine the legal and practical dimensions of protecting seized objects within Rupbasan. The research highlights critical issues, including limited human resources, inadequate infrastructure, and a lack of professional capacity to secure and preserve assets effectively. Although Article 44 paragraph (2) of the Indonesian Criminal Procedure Code (KUHP) stipulates that seized goods cannot be used by any party, it does not provide procedural sanctions for non-compliance. Administrative enforcement relies on internal regulations from investigative bodies, such as the police or the public prosecutor's office. The findings underscore the need for systematic improvements, including legal clarity on sanctions, enhanced professional capacity of Rupbasan personnel, sufficient storage facilities—especially for motor vehicles—and stronger security protocols. These enhancements are vital to ensure the state's obligation to protect assets as part of broader legal protection for its citizens.

## 1. INTRODUCTION

Legal protection to Indonesian citizens has been guaranteed in the Constitution of the Republic of Indonesia to provide equal status for everyone, the state is responsible for providing a sense of fairness and equality to citizens, especially legal protection based on Article 28 D paragraph (1) of the amendment to the 1945 Constitution "Everyone is entitled to recognition, guarantees, protection and certainty of a fair law and equal treatment before the law", the legal system translates the purpose of law to provide justice, certainty and benefit to everyone.

For this reason, legal instruments are formed to enforce material and formal legal objectives in the legal system, emphasizing that the state is present to provide equal equality between the government and society, law enforcement protects and maintains security, order and law enforcement to citizens which is a guarantee of state legal protection.

According to Olof Kinberg, a Swedish Forensic Psychiatrist and Criminologist, that crime, in general, is the expression of an abnormality or immaturity of a perpetrator, which requires treatment rather than criminal<sup>1</sup>

The Indonesian legal system has divided the authority of legal instruments such as the police, prosecutors, courts and corrections, where these legal instruments have their respective functions, the State Confiscated Object Storage House or Rupbasan for short is also part of the legal system.<sup>2</sup> Referring to Law Number 8 of 1981 concerning Criminal Procedure Law abbreviated as KUHP in Article 44 Paragraph (1) Confiscated objects are stored in the State confiscated object storage house., Philosophically, the existence or existence of Rupbasan is needed as a form of legal protection and respect for the legal rights of suspects or defendants related to evidence, with the existence of Rupbasan being the hope of improving the quality of law enforcement with justice, especially evidence in the criminal law process.

The purpose of law enforcement is to maintain social stability by either preventing or punishing illegal behavior once it has occurred,<sup>3</sup> Efforts to combat crime through criminal law are an integral component of law enforcement initiatives, particularly within the realm of criminal law enforcement.<sup>4</sup> The existence or existence of Rupbasan as one of the law enforcement agencies has many problems, Rupbasan as an institution / institution that should store evidence in carrying out its duties feels ineffective, in Law No. 8 of 1981 Article 44 of the Criminal Procedure Code, confiscated goods are stored in Rupbasan, in fact not all confiscated goods are stored in Rupbasan, This then becomes a problem gap between the sound of Article 44 of the Criminal Procedure Code which becomes a multi-interpretation without any obligation from other law enforcement agencies to store confiscated goods in Rupbasan and observations in the field where other law enforcement agencies also store confiscated goods, so whether the duties and functions of Rupbasan are in accordance with the mandate in the law which is the only place to store confiscated objects in reality some of Rupbasan's functions are not running properly.

Another problem is related to the norms of legislation where the legal basis for the implementation of duties in Rupbasan in the application of the Criminal Procedure Code, the authority of other law enforcement agencies can store confiscated goods, as in the general explanation of Article 44 that "As long as there is no state confiscated object storage house in the place concerned, the storage of confiscated objects can be carried out at the office of the police of the Republic of Indonesia, at the

<sup>1</sup> Ratnawati, R. (2020). Children's Recidivist who Conducted Criminal Act: Legal Psychology Perspective. *Hasanuddin Law Review*, 6(2), 142-148.

<sup>2</sup> Perdana, Almavico Putra. "Pelaksanaan Pengelolaan Benda Sitaan dan Barang Rampasan Negara di Rumah Penyimpanan Benda Sitaan Negara (RUPBASAN) KELAS I JAKARTA SELATAN." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 7.1 (2020): 222-228.

<sup>3</sup> Suhadi, S., Muchtar, S. ., & Mayasari Muin, A. (2023). Implementation of borrow-used evidence criminal case in Makassar City. *The International Journal of Politics and Sociology Research*, 11(1), 119–129. <https://doi.org/10.35335/ijpsor.v11i1.109> hal 120

<sup>4</sup> Ermaida, M., Arie, M., & Syarief, L. M. (2024). Regulation of Asset Recovery in the Judicial System in Indonesia. *Journal of Hunan University Natural Sciences*, 51(5).

district attorney's office, at the district court office, at the government bank building, and in force majeure at another storage place or remain in the original place where the object was confiscated".

In the explanation of Article 44 of the Criminal Procedure Code, it can be interpreted that other law enforcers have the authority to store confiscated goods, without any control over the procedures and procedures for storage in Rupbasan, so it can be said to be contradictory to the norms of Article 44 of the Criminal Procedure Code, the problem of legislation is an important issue for the effectiveness of the protection of confiscated goods in Rupbasan.<sup>5</sup>

Data calculated by the Director General of Corrections currently Rupbasan institutions throughout Indonesia manage confiscated goods with a value of more than 17 trillion Rupiah deposited from law enforcement, with the calculation of the estimated economic value of confiscated goods is a potential source of state revenue both as Non-Tax State Revenue or PNPB as well as the potential to become state property assets after a court decision if the protection and management are not properly maintained can be a potential state loss for the depreciation of the economic value of a confiscated item.<sup>6</sup> Seeing the reality in the field, this is a problem with the protection of confiscated goods and the governance of the administration of confiscated goods stored in Rupbasan.

In Rupbasan Makassar, there were many problems, in 2006 there was an embezzlement of confiscated goods in the form of 200 sacks of fertilizer by unscrupulous employees of Rupbasan Makassar where Rupbasan Makassar was supposed to protect confiscated goods but abused power for personal gain and committed unlawful acts by selling the confiscated goods, the perpetrator has been punished both administratively and serving a prison sentence.

Furthermore, the loss of confiscated goods in the form of confiscated goods in the form of sandals as many as 9,753 pairs deposited by the police which occurred in 2011 caused the owner of the goods to file a civil lawsuit against the Indonesian National Police and the Ministry of Law and Human Rights which was decided up to the Cassation level and the defendant Rupbasan Makassar was declared defeated and was obliged to pay compensation of Rp 448,638. 000, - (four hundred forty-eight million six hundred thirty-eight thousand rupiah) and in 2014 based on the Supreme Court decision No. 774 K / Pdt / 2014 and there was a lawsuit again with the same object by the same owner of the confiscated sandals, the Ministry of Law and Human Rights was obliged to replace 116,058,000, - (one hundred sixteen million fifty-eight thousand rupiah) against the same confiscated goods based on the Supreme Court decision No. 67. / pdt.G/2018/PN Mks in 2018, and also in 2022 there was an unprocedural release of confiscated goods in the form of motorized vehicles where unscrupulous Rupbasan officials sold the confiscated goods, seeing the problems that occur are a reality of confiscated goods stored in Makassar Rupbasan, there is a problem of how the state protects confiscated goods stored in Rupbasan.

Another problem is that the existing Rupbasan facilities are still not maximized or still not good because Rupbasan does not have adequate maintenance facilities, so that the maintenance of confiscated goods is not carried out optimally, overall it can be said that Rupbasan personnel are also limited and do not have the professional ability to protect and maintain confiscated goods.<sup>7</sup>

The existence of Rupbasan is an issue of whether it can be present to carry out integral legal enforcement in the criminal law system where the existence of Rupbasan itself can exist as part of legal protection and protection of human rights to suspects or defendants and people who expect justice. Then the institutional structure where the police and the prosecutor's office have a structure that takes care of confiscated goods and booty so that it is seen that Rupbasan's function can be weak in implementation and ineffective as a law enforcement agency.

From this condition, it becomes a question of how the existence of legal protection of confiscated goods stored in Rupbasan and confiscated goods stored in other law enforcement agencies, whether philosophically it can still exist as part of the legal system and provide justice and maintain human rights and whether it is necessary to restructure the law and then reposition Rupbasan in the ideal Indonesian criminal law order.<sup>8</sup>

## 2. RESEARCH METHOD

This research uses the type of normative legal research, the author used a normative juridical research approach that was qualitative in nature,<sup>9</sup> mainly aimed at examining the protection of confiscated goods stored in Rupbasan based on factual positive legal provisions that occur in legal events in society to achieve predetermined goals based on secondary data, and legal materials collected obtained from the results of literature studies. This research is descriptive analysis, which was a research that aimed to make a description (*descriptive*) of a social phenomenon and then look for the relationship. The descriptive method was the search for facts with the right interpretation, where researchers will see and collect information related to the implementation of legal protection against confiscated goods and the point of view of legal protection against juridically analyzed confiscated goods.

## 3. RESULT AND DISCUSSION

The confiscation of the proceeds of criminal instruments from the perpetrators of criminal acts, not only transfers several property from the perpetrators of crime to the community but will also increase the possibility of society to realize the common goal of the establishment of justice and welfare for all members of society. Article 28 D Paragraph (1) of the amended 1945 Constitution states that "every person has the right" to "recognition, guarantees, protection and certainty of a just law and equal treatment before the law". Furthermore, Article 28 H Paragraph (4) confirms that "everyone has the right to private property and such property rights shall not be taken over arbitrarily by anyone".

The confiscation of a person's property allegedly derived from the proceeds of crime may for some parties be considered a form of violation of human rights and violation of the principles of law, especially Investigators, Public Prosecutors and Judges frontally confiscate a person's property without being preceded by a court decision. The evidence itself is supporting data for a judge in deciding a case. Meanwhile, Article 188 paragraph 3 of the Criminal Procedure Code explains that the assessment of

<sup>5</sup> Anugrah, S. H., Muhammad Basri, and Hijrah Adhyanti Mirzana. "Penanganan Benda Sitaan Negara dan Barang Rampasan Negara yang Tersimpan dalam Waktu Lama di Rumah Penyimpanan Benda Sitaan Negara." *Jurnal Al-Qadai: Peradilan dan Hukum Keluarga Islam* 8.1 (2021): 130-145.

<sup>6</sup> Hattu, Tino YS, Elsa Rina Maya Toule, and Hadibah Zachra Wadjo. "Penyidikan Terhadap Pelaku Pencurian Benda Sitaan Pada Rumah Penyimpanan Benda Sitaan." *TATOHI: Jurnal Ilmu Hukum* 1.10 (2021): 1047-1061.

<sup>7</sup> Rosandi, Indra Setiawan, and Odi Jarodi. "Implementasi Sistem Database Pemasyarakatan Di Rumah Penyimpanan Benda Sitaan Negara Kelas I Bandar Lampung." *Jurnal Pendidikan dan Konseling (JPDK)* 4.6 (2022): 2397-2402.

<sup>8</sup> Rahman, Zaky Aulia. *Status Barang Bukti dalam Rumah Penyimpanan Benda Sitaan Negara*. Diss. Universitas Airlangga, 2015.

<sup>9</sup> Irwansyah, Penelitian Hukum, Pilihan Metode dan Praktik Penulisan Artikel (Yogyakarta, Mirra Buana Media, 2021), Hlm. 174.

the evidentiary strength of a clue in each particular situation is carried out by the judge wisely and wisely, after he conducts an examination with full care and seriousness based on his conscience.<sup>10</sup>

Article 185 of the Criminal Procedure Code and Article 186 of the Criminal Procedure Code, that the results of examination by other experts (other than judicial medical experts) are usually "expertise", for example the results of examination of certain parts of the human body or the results of examination of certain objects, if given orally in court it will occur or become expert testimony as mentioned in Article 184 of the Criminal Procedure Code. Meanwhile, information given by an expert (not a judicial expert), if given in writing, will become a certificate from an expert "".

Thus it is clear that confiscated objects that become evidence are very important in the meaning and role in the Public Prosecution of criminal acts committed by the defendant. That is why the Public Prosecutor as much as possible seek / face confiscated objects that become evidence of his cell in court. The Criminal Procedure Code determines the objects that can be subject to confiscation. Article 39 of the Criminal Procedure Code states that objects that can be subject to confiscation are :

- a. Objects or bills of the suspect or defendant which are wholly or partly suspected of being obtained from a criminal offense or as a result of a criminal offense.
- b. Objects that are used directly to commit a criminal offense or to prepare for it.
- c. Objects used to obstruct the investigation of a criminal offense,
- d. Objects specifically made or intended to commit a criminal offense,
- e. Other objects that have a direct relationship with the criminal offense committed.
- f. Objects that are in the system due to civil cases or bankruptcy can also be confiscated for the benefit of investigation, prosecution and control of criminal cases as far as paragraph 1 of Article 39 paragraph 2 is concerned.

Objects such as those mentioned above can be confiscated, although their different forms will not prevent confiscation, for example, the object is large or small, or it may also be a human voice on a cassette tape, can be legally confiscated.<sup>11</sup> According to Article 44 paragraph (1) of KUHAP, RUPBASAN is the State Confiscated Object Storage House. Every confiscated object is stored in the RUPBASAN. All confiscated objects that are needed as evidence in the examination of the investigator, prosecution and examination at the court session as well as items declared seized based on a judge's decision, are stored in RUPBASAN. This was the confirmation of Article 27 paragraph (1) of PP No.27/1983.

The form of protection of state confiscated objects and state booty, namely storing state confiscated objects, is a technical implementation unit under the Directorate General of Corrections, Ministry of Law and Human Rights which functions as:

- a. Where State confiscated objects are stored and maintained so that their integrity is guaranteed.
- b. Goods seized by and for the State.

In addition, RUPBASAN also has the main task of carrying out the storage and maintenance of confiscated objects and State booty. Other functions of RUPBASAN include:

- a. Carry out the administration of confiscated objects and State booty.
- b. Carry out maintenance and mutation of confiscated objects and State booty.
- c. Perform security and management of RUPBASAN.
- d. Conducting administrative affairs.

The purpose of protecting confiscated objects and State booty is to maintain the integrity of the evidence so that at any time the evidence is used in a criminal process the evidence is still in its original state ". The form of the management process of State confiscated objects and State booty is divided into several activities, namely reception activities The reception procedures that must be carried out include:

1. Acceptance of confiscated objects and State booty is carried out at RUPBASAN except for special items.
2. In receiving confiscated objects / State booty, RUPBASAN officers must conduct research on confiscation letters as the basis for receiving, storing confiscated objects / State booty, namely:
  - a. Cover letter from the authorized agency.
  - b. Seizure permit / approval of seizure from the head of the District Court.
  - c. Minutes of the seizure.
3. The receiving officer shall match the amount, type of confiscated items received in accordance with the minutes of confiscation.
4. The receiving officer submits the State confiscated goods (basan) or State booty (baran) to the research officer to conduct research on immovable confiscated objects (such as land, houses, ships, sea and movable objects that cannot be stored at RUPBASAN), then after the receiving officer checks the papers then matches them in the place where the confiscated object is located together with the research officer and the official who submitted it.
5. As a complete document, the officer can take a photo of the immovable confiscated object which is outside / not stored in RUPBASAN.
6. After the inspection, matching, or research activities and photographing are completed, the research officer makes a research report with the specification of the identification results of the confiscated object attached. The minutes of receipt will be useful as a receipt for officials who submit confiscated objects, therefore the minutes must contain, among others:
  - a. Day, Date month, year and what time and place where the minutes are signed
  - b. Complete identity of the submitting official (party I).
  - c. Complete identity of the RUP BASAN receiving officer (party II).
  - d. Date and number of seizure warrant/permit.
  - e. Date and number of the complete research report stating the type / name of the confiscated object, quality and quantity and specifications.
  - f. Signature of party I and party II.
  - g. Names and signatures of two witnesses each from party I and party II.
  - h. Signature, official stamp, name and NIP of the Head of RUPBASAN.

The activity of storing State confiscated objects and State booty from law enforcement agencies is carried out by storing the

<sup>10</sup> Robot, Melfiani. "Alat Bukti sebagai Petunjuk Hakim dalam Menjatuhkan Tindak Pidana Pembunuhan oleh Penyandang Disabilitas di Indonesia." *Lex Administratum* 10.4 (2022).

<sup>11</sup> Sugiarto, Totok. "Tinjauan Tentang Pelaksanaan Pengelolaan Benda Sitaan Negara Dan Barang Rampasan Negara Di Rumah Penyimpanan Benda Sitaan Negara (RUPBASAN) Probolinggo." *IUS: Jurnal Ilmiah Fakultas Hukum* 7.1 (2019): 1-15.

object based on the type of object itself.<sup>12</sup>

#### 1. General Assets / Warrants

General Basan / Baran which consists of various objects or items that are sensitive and sensitive to dust and water, and do not damage the objects around them, including machine tools, electronic devices, furniture, office equipment, books, textiles, ceramics and leather. The protection process is carried out as follows:

- a. Receiving and storing general objects that have been subjected to file examination and research/assessment by officers.
- b. Labeling the evidence according to its register number.
- c. Fill in the list of contents of the warehouse.
- d. Locking the warehouse, after which the key is inserted into the warehouse lock box.

#### 2. Dangerous Goods

Dangerous Goods consist of various objects or goods that affect and or can damage objects or goods around them as well as human health, among others: Pharmaceutical preparations, explosives, hazardous chemicals, firearms, sharp weapons, oil/gas materials, traditional medicines and cosmetics. The following protection process is carried out on the basan/baran:<sup>13</sup>

- a. Receiving and storing dangerous items that have been subjected to file inspection and research/assessment by officers.
- b. Labeling the evidence in accordance with the register number.
- c. Fill in the list of contents of the warehouse.
- d. Locking the warehouse, after which the key is inserted into the warehouse lock box.

#### 3. Valuable Goods

Valuable items consist of various objects or items which according to the assessment have a relatively high or large selling value and do not damage the surrounding objects, including: metal jewelry, gemstones, money, and valuable papers / documents. The following protection process is carried out on these items:<sup>14</sup>

- a. Receiving and storing valuable items that have been subjected to file examination and research/assessment by officers.
- b. Labeling the evidence in accordance with its register number.
- c. Fill in the list of contents of the warehouse.
- d. Locking the warehouse, after which the key is inserted into the warehouse lock box.

#### 4. Open Basan/Baran

Open Basan / Baran consists of various objects or goods which are relatively large in size and resistant to dust and changes in air temperature, among others: Motorized vehicles ranging from two, three, four and above wheels, non-motorized vehicles, building and construction materials, mechanics. The following protection process is carried out on these items:

- a. Receiving and storing general objects that have been subjected to file inspection and research/assessment by officers.
- b. Labeling the evidence in accordance with the register number.
- c. To fill in the list of contents of the Open Basan/ Baran

#### 5. Animal and Plant Goods

Animal and Plant Goods consist of various kinds of animals that live on land, in the air and in the water, then various types of plants that become evidence by law enforcement agencies.

The following protection process is carried out on these items:

- a. Receive and store animal and plant evidence that has been subjected to file examination and research/assessment by officers.
- b. Labeling the evidence in accordance with the register number.
- c. Fill in the list of contents of Animals and Plants

Maintenance activities for State confiscated objects and State booty:<sup>15</sup>

- a. Make a schedule of maintenance activities for confiscated objects.
- b. Developing a maintenance cost plan for confiscated objects.
- c. Conducting periodic inspection and maintenance of confiscated goods.
- d. Recording the results of inspection and maintenance in a special book for the maintenance of confiscated goods.
- e. Carry out maintenance of objects such as valuable, dangerous objects and animals and plants that require special care.
- f. Recording and reporting to the juridically responsible agency in the event of damage and / or depreciation of evidence.

The activities of releasing and destroying State confiscated objects and State booty are as follows:

1. The release of confiscated objects for the purposes of investigation and prosecution must be accompanied by a valid request letter from the agency that confiscated the confiscated objects.
2. In the implementation of the release of basan, RUPBASAN officers are required to:
  - a. Research the request letter for the release of the foundations.
  - b. Make a report on the handover of the release of found objects.
  - c. Deliver a copy to the confiscating agency.
  - d. Recording the length of the loan of the foundations in the available register (loan register).
3. Expenditure request letter:
  - a. For the purposes of court hearings must be received by the Head of RUPBASAN no later than 1 x 24 hours before the court day.
  - b. To be returned to the rightful person based on a court decision no later than 2 x 24 hours.
  - c. For auction no later than 2 x 24 hours.
  - d. For destruction no later than.

<sup>12</sup> Satriya, Aryan Mu'aafii, and M. Khoirul Anwar. "EFEKTIVITAS RUMAH PENYIMPANAN BENDA SITAAN NEGARA KELAS I JAKARTA UTARA DALAM MENYIMPAN DAN MEMELIHARA BARANG SITAAN DAN RAMPASAN." *PENTAHILIX* 2.1 (2024): 71-82.

<sup>13</sup> Setyadi, Sigit. "Peran Rumah Penyimpanan Benda Sitaan Negara (RUPBASAN) Dalam Penegakan Hukum)." *Jurnal Kajian Hukum* 1.2 (2016): 205-224.

<sup>14</sup> Wijaya, Vincentius Andhika. "Analisis Kesalahan Tata Kelola Rupbasan." *Literacy* 2.2 (2020): 88-100.

<sup>15</sup> Akhrijulian, Vadli, and Padmono Wibowo. "PENGELOLAAN BENDA SITAAN DAN BARANG RAMPASAN NEGARA DI RUMAH PENYIMPANAN BENDA SITAAN NEGARA (RUPBASAN) KELAS I BENGKULU." *Jurnal Pendidikan Kewarganegaraan Undiksha* 10.1 (2022): 376-384.

4. The release of confiscated objects for return to the person or persons from whom they were confiscated, or to those entitled to them must be based on a return order/stipulation from the confiscating agency or based on a court decision.
5. In carrying out the release of the found objects for return to the relevant parties (point 4), the RUPBASAN officer must:
  - a. Examine the warrant/decision from the confiscating agency or the relevant court decision.
  - b. Make minutes of the handover of the return to the relevant parties.
  - c. Recording in the register book of confiscated items that are returned to the relevant parties.
6. The disposal of found objects because they are confiscated to the State or to be destroyed or damaged so that they can no longer be used must be based on a court decision.
7. In the event that State confiscated objects are declared forfeited to the State, RUPBASAN officers must:
  - a. Conduct research on the court decision.
  - b. Make minutes of handover if the court decision stipulates a certain agency appointed to receive the confiscated object.
  - c. Record in the register of the determination of the State booty.
8. In the event that the State booty must be destroyed or destroyed by the Public Prosecutor, the RUP BASAN officer must:
  - a. Research/examine the court decision on the booty.
  - b. Prepare the goods that are destroyed / destroyed.
  - c. Recording in the register list of destroyed goods.
9. The release or destruction of found objects due to damage, shrinkage due to fire, theft, natural disasters (force majeure) is carried out by a special committee formed by the head of RUP BASAN and is known by the investigator and the relevant Public Prosecutor.
10. In the implementation of the destruction of goods carried out by the Prosecutor's Office, it must be witnessed by the Head of RUPBASAN as the physical person in charge of the goods.

In managing seized objects, one key aspect is ensuring their protection and that of confiscated state assets. RUPBASAN aims to implement administrative control over the receipt, storage, maintenance, security, release, and destruction of seized objects based on applicable laws and regulations while adhering to service standards to achieve optimal service delivery..<sup>16</sup> RUPBASAN also provides a sense of security to detainees or parties involved in legal proceedings regarding their seized property and guarantees the protection of state assets, specifically seized goods that have been decided by the court and have acquired permanent legal force.

Additionally, RUPBASAN's objectives include ensuring the integrity of seized objects and confiscated state assets in terms of both quality and quantity, upholding the human rights of detainees or parties involved in legal cases, and maintaining the safety and security of seized objects used as evidence during investigation, prosecution, and court proceedings.<sup>17</sup> RUPBASAN seeks to protect state assets that have been legally confiscated for the state based on court rulings.

The process of executing state-seized objects and confiscated assets involves carrying out court decisions or implementing rulings (*tenuitvoer legging van vonnissen*). Terminologically, execution refers to enforcing court decisions (*verdicts*) that have acquired permanent legal force. Court decisions that can be executed are those with *executorial force*, specifically *condemnatory* rulings, while *declaratory* and *constitutive* rulings do not require execution for their implementation.<sup>18</sup> The court in executing must pay attention to the principles of implementing the decision, which are as follows:

1. Court decisions have obtained permanent legal force, except for provisional decisions, peace decisions, execution of gross deeds and implementation of voerbaar bij voorraad decisions. Decisions that have obtained permanent legal force are final decisions, there are no more legal remedies, can no longer be disputed by the parties to the case, have legal binding force on the parties to the case.
2. The decision is not implemented voluntarily, meaning that the losing party voluntarily implements the decision, if necessary, it can be forced through a process by the court.

The State Confiscated Object Storage House (RUPBASAN) has procedures in the process of executing State confiscated objects and State booty. The execution process includes the process of releasing and destroying evidence that will be carried out by RUPBASAN officers.<sup>19</sup> The expenditure in question is a series of activities for the release of confiscated goods carried out before the verdict and after a court decision that has permanent legal force, while destruction is a series of activities to physically eliminate the confiscated goods which can no longer be used. Expenditure to carry out a court decision on booty whose verdict is in the form of:

- a. Return of confiscated objects can occur when the case is still under investigation or prosecution as stipulated in Article 46 paragraph 1 of the Criminal Procedure Code which states that: "Expulsion / Return of confiscated objects is requested by the investigator or public prosecutor, because: a. it is no longer needed in the investigation or prosecution, b. the case is not continued with prosecution either because there is insufficient evidence to prosecute it or if it turns out that the event is not a criminal offense, c. the case is set aside or the case is closed for the sake of law.
- b. The return can also be based on a court decision that has obtained permanent legal force, as stipulated in Article 46 paragraph 2 of the Criminal Procedure Code which explains that "the return of confiscated objects based on a court decision is given to the person named in the verdict".<sup>20</sup>

The auction of seized objects differs from execution auctions conducted by the District Court. The regulations governing such auctions include:

1. Conditions for auction sales:
  - a. Seized objects that are perishable.
  - b. Seized objects that cannot be stored until a District Court decision is issued.
  - c. Seized objects with excessively high maintenance costs.

<sup>16</sup> Sari, Wulanda. *PENGELOLAAN MOBIL SITAAN YANG DILAKUKAN OLEH RUMAH PENYIMPANAN BENDA SITAAN NEGARA (RUPBASAN) KOTA PEKANBARU BERDASARKAN PERATURAN MENTERI HUKUM DAN HAM NOMOR 16 TAHUN 2014*. Diss. FAKULTAS SYARIAH DAN HUKUM, 2023.

<sup>17</sup> Efendi, Denny Rizal. "Peran Kementerian Hukum Dan Hak Asasi Manusia Dalam Proses Lelang Barang Rampasan Negara Pada Satuan Kerja Rupbasan Wonogiri." *JURNAL BEVINDING* 1.01 (2023): 18-31.

<sup>18</sup> Rachmawati, Niken, Ali Muhammad, and Cahyoko Edi Tando. "Pelaksanaan Pembaharuan Sistem Pemasyarakatan Dalam Optimalisasi Tugas dan Fungsi Pemasyarakatan." *Jurnal Pendidikan dan Konseling (JPDK)* 4.6 (2022): 2849-2856.

<sup>19</sup> Masoa, Dorkas. "Kajian Teoritis Penggunaan Teknologi Informasi Pada Layanan Pemasyarakatan Guna Meningkatkan Kualitas dan Kepuasan." *Innovative: Journal Of Social Science Research* 3.6 (2023): 4818-4833.

<sup>20</sup> EFRA WAHYUNI, EFRA WAHYUNI. *PERTANGGUNGJAWABAN PIDANA TERHADAP PELAKU PENCURIAN BENDA SITAAN DAN BARANG RAMPASAN NEGARA (Studi Kasus Putusan Pengadilan Negeri Jambi Nomor: 498/Pid. b/2019/PN Jmb)*. Diss. Universitas Batanghari, 2020.



2. Procedures for auction sales:
  - a. Whenever possible, approval should be obtained from the suspect or their representative.
  - b. Officials authorized to conduct the auction:
    - 1) At the investigation stage – conducted by investigators.
    - 2) At the prosecution stage – conducted by prosecutors.
    - 3) At the judicial examination stage – conducted by prosecutors with the judge's approval. District Court judges handle cases at the District Court level. High Court judges handle cases at the High Court level. Supreme Court judges handle cases at the Supreme Court level.
  - c. Auction execution by the State Auction Office:
    - 1) Auctions are conducted at the State Auction Office.
    - 2) Consultations are held between auction officials, legal experts, and law enforcement officers.
    - 3) The auction must be witnessed by the suspect or their representative.
    - 4) Proceeds from the auction are used as evidence.
    - 5) The auction process must be witnessed by RUPBASAN officials.
  - d. Storage of auction proceeds. According to Article 12, paragraph (2) of Minister of Justice Regulation No. M.05-UM.01.06/1983, auction proceeds must be deposited in RUPBASAN and recorded in the official register.

Auctions must follow established procedures and cannot be conducted arbitrarily without approval from the relevant authorities. Evidence may be auctioned only if it is perishable or has a limited shelf life.<sup>21</sup> potential misuse of RUPBASAN as a storage place for state confiscated objects and state confiscated goods. The issue of confiscation is regulated in Article 1, Articles 38 to 46 and several scattered articles such as Article 128 of Law No. 8 of 1981 which is better known as the Criminal Procedure Code (KUHP).<sup>22</sup>

At the investigative level, the juridical responsibility lies with the investigator and at the prosecution level the responsibility lies with the public prosecutor (prosecutor). Meanwhile, physical responsibility for confiscated objects lies with RUPBASAN. In order for the confiscation of evidence to be carried out efficiently and effectively, planning must be carried out properly by investigators and RUPBASAN. So far it seems almost never done. Evidence that requires large maintenance costs does not need to be confiscated. Evidence that has no material value should also not be confiscated, such as cigarette ashtrays. Evidence that has been confiscated must be handed over to RUPBASAN. Confiscated goods in the form of companies must be maintained so that they do not harm employees or the economy.

To secure evidence properly, the evidence must be entrusted to RUPBASAN. So far, the Corruption Eradication Commission has used RUPBASAN a lot. Meanwhile, other investigators rarely use RUPBASAN's services. Article 44 paragraph (2) of the Criminal Procedure Code prohibits the use of confiscated objects by anyone. The KUHP does not regulate sanctions for violations of these provisions because it is not in the place of the KUHP which regulates procedural law to also regulate sanctions.<sup>23</sup> Administratively, sanctions for violations of Article 44 of the Criminal Procedure Code are regulated by the investigating agency (for example the police) or the public prosecution agency (attorney) in the form of National Police Chief regulations or Attorney General regulations. If the violation is of a criminal nature, such as embezzlement of evidence, of course criminal provisions apply.

#### 4. CONCLUSION

Legal protection for confiscated objects and goods confiscated by the State as mandated by law. Article 44 paragraph (2) of the Criminal Procedure Code prohibits the use of confiscated objects by anyone. The KUHP does not regulate sanctions for violations of these provisions because it is not in the place of the KUHP which regulates procedural law to also regulate sanctions. Administratively, sanctions for violations of Article 44 of the Criminal Procedure Code are regulated by the investigating agency (for example the police) or the public prosecution agency (attorney) in the form of National Police Chief regulations or Attorney General regulations. It is hoped that law enforcement officers will realize that this is in accordance with their respective duties and functions and that there is a need for care for confiscated state objects in RUPBASAN, security will be further increased, and there needs to be a place to store confiscated objects such as cars and motorbikes due to limited land space. storage of confiscated objects.

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