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The Ideal Strengthening of the Attorney General's Authority in Civil and Administrative Law to Provide Legal Assistance in the Implementation of Strategic Projects

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Abstract: The objective of this paper is to formulate the ideal strengthening of the Attorney General's Office's authority in the fields of civil and administrative law to provide legal assistance in the implementation of strategic projects. This study employs a normative legal research method using several approaches, namely the Statutory Approach, the Conceptual Approach, and the Case Approach. The research utilizes a data analysis technique based on deductive logic with a prescriptive nature. The findings of this paper indicate that the authority of the Attorney General's Office in the fields of civil and administrative law needs to be strengthened in terms of both substance and structure to support legal assistance for national strategic projects. Pursuant to Article 18 of Law No. 11 of 2021, the Attorney General's Office acts as the State Attorney in both litigation and non-litigation matters in the interests of the state and government. This assistance is carried out through the safeguarding of strategic projects and legal risk mitigation. A paradigm shift from a repressive to a preventive approach is crucial to minimize deviations and support sustainable governance. Therefore, coordination among units, supervision, and comprehensive regulations are necessary to ensure transparency and accountability.

Keyword: Prosecution Service, Legal Assistance, Strategic Projects.

INTRODUCTION

Law is a fundamental system in regulating societal and state life, where its function is not merely to govern people's behavior but also serves as an essential instrument in institutional power execution (Yuhelson, 2017). As Aristotle argued, the rule of law is far superior to the tyranny of rampant regulations because it provides certainty and justice in society while preventing abuse of power across various fields, including politics, economics, and social affairs (Yuhelson, 2017).

In the context of state institutions, authority derived from law plays a vital role in maintaining orderly administration and state governance (Mubarak & Trisna, 2021). In the perspective of Administrative Law, authority refers to powers granted by legislation to

government officials or agencies to perform administrative actions in carrying out governmental duties (KemenPANRB, 2004). Meanwhile, from the perspective of Constitutional Law (Ahmad et al., 2020), authority closely relates to the distribution of power among state institutions such as the executive, legislative, and judiciary, as well as between the central and regional governments (Ahmad et al., 2020, 2024; Ahmad & Badu, 2021; Ahmad & Nggilu, 2019; Yani, 2018).

The Attorney General's Office, as one of the law enforcement institutions established by law, has a strategic role within Indonesia's judicial system (Ramadani, 2020). This institution functions not only in the criminal domain by conducting prosecutions (Tampoli, 2016), but also holds special authority in civil and administrative law as regulated in the Indonesian Attorney General Regulation No. 7 of 2021 (Simamora, 2022). Acting as the State Attorney (Jaksa Pengacara Negara, JPN), the Attorney General's Office is tasked with representing the state or government in resolving civil cases and providing legal assistance to protect national interests (Simanjuntak, 2018).

One critical area requiring legal assistance from the Attorney General's Office is the implementation of National Strategic Projects (PSN) (Febriansah et al., 2024). These projects, as stipulated in Presidential Regulation No. 3 of 2016 on the Acceleration of National Strategic Projects, represent development initiatives that significantly impact the nation's economy, infrastructure, and social progress (Kusbandini et al., 2023). However, the complexity and substantial investment values of these projects also bring significant risks of budget misuse (Rivai & Anugrah, 2011).

Data from the Financial Transaction Reports and Analysis Center (Pusat Pelaporan dan Analisis Transaksi Keuangan, PPATK) in 2023 revealed alarming facts where 36.67% of the total budget for PSN projects was embezzled or misused for personal gain (Technoz, 2024). According to the Priority Infrastructure Provision Acceleration Committee (Komite Percepatan Penyediaan Infrastruktur Prioritas, KPIP), of the total PSN investment value of IDR 1,515.4 trillion, approximately IDR 510.23 trillion was allegedly diverted to the pockets of civil servants and politicians (Indonesia, 2024). This situation underscores the urgency to strengthen the supervision system and legal assistance in PSN implementation.

Although the Attorney General's Office has demonstrated its active role in supporting various national strategic projects, such as the Jabodetabek Light Rail Transit (LRT), the Jakarta-Bandung High-Speed Rail (KCIC), and the Tuban Oil Refinery construction by Pertamina, its authority in overseeing PSN remains limited. Presidential Instruction No. 1 of 2016 on the Acceleration of National Strategic Projects does not explicitly mandate the involvement of the Attorney General's Office in project assistance, rendering its role passive and dependent on requests from implementing agencies (Sumbawa, 2017).

This limitation becomes problematic given the high potential for budget misuse in PSN implementation, as evident in the land acquisition case for the Bulango Ulu Dam in Gorontalo Province. This IDR 2.2 trillion project faced numerous issues related to alleged misappropriation of state funds in the compensation process (Lahay, 2021). This situation highlights the importance of strengthening the authority of the Attorney General's Office in providing legal assistance during the implementation of strategic projects, not only at the national level but also at the regional level, to ensure clean and accountable project execution.

METHOD

The research method employed in this study is normative legal research (Irwansyah, 2020) which focuses on analyzing applicable legal norms to understand the regulation, application, and interpretation of law in specific contexts. The study adopts several approaches: the statutory approach to analyze the hierarchy and principles of regulations related to strengthening the Attorney General's authority in civil and administrative law, the conceptual approach to formulate a model for strengthening such authority, and the case approach to

examine the application of legal norms and the challenges in their implementation (Fajar & Achmad, 2010). The legal materials used include primary, secondary, and tertiary legal sources obtained through literature studies, interviews, and field documentation. The legal material analysis technique employs deductive logic, beginning with a major premise and leading to more specific conclusions (Mahmud Marzuki, 2014).

RESULTS AND DISCUSSION

The Ideal Model of Prosecutorial Authority in Civil and Administrative Law for Legal Assistance in Strategic Project Implementation

Substance

According to Article 18 of Law No. 11 of 2021, which amends Law No. 16 of 2004 concerning the Indonesian Prosecutor's Office, the Attorney General, either by special authority or by virtue of their position, is authorized to act as a State Attorney in civil, administrative, and constitutional matters at all levels of court, whether in litigation (in court) or non-litigation (out of court) (Tulangow, 2021). This authority is exercised for the benefit of the state, the government, or the public interest.

Legal assistance provided by the Indonesian Prosecutor's Office, including safeguarding national strategic projects and offering legal counsel, plays a significant role in ensuring the smooth execution of national development Strategic project safeguards are implemented by the Directorate of Strategic Project Security under the coordination of the Deputy Attorney General for Intelligence. This directorate was established in response to Presidential Instruction No. 1 of 2016 on Accelerating the Implementation of National Strategic Projects (PSN) (Pranoto & Nugraha, 2024). Additionally, legal assistance is provided by the Directorate of Civil Law under the Deputy Attorney General for Civil and Administrative Law, which offers legal opinions and advice as part of its responsibilities under Law No. 11 of 2021, as well as Presidential Regulations and Attorney General's regulations governing the duties and roles of the Prosecutor's Office (Amaliyah & Istiqamah, 2021).

This role signifies a significant paradigm shift in legal practice. The legal framework, previously repressive in nature, has evolved to become more preventive, focusing on averting deviations and obstacles in development (Yusni, 2020). This approach emphasizes law as a tool for social engineering and a driver for development across various strategic sectors (Kristianti, 2021). Through legal assistance, the Prosecutor's Office functions not only as a law enforcement body addressing violations but also actively ensures that strategic projects comply with applicable regulations and minimize risks that may hinder national development interests (Yusni, 2020).

This paradigm shift reflects the Prosecutor's Office's efforts to adapt its law enforcement functions to be more responsive to Indonesia's developmental dynamics (Muhammad et al., 2023). By emphasizing preventive measures through legal oversight and assistance, the Prosecutor's Office addresses legal actions not only reactively but also ensures that every strategic project proceeds with legal certainty and transparency (Khasyi' et al., 2024). This approach integrates legal functions into sustainable development efforts across various sectors, encompassing planning, project execution, and final evaluation to safeguard national interests and promote Indonesia's economic progress sustainably (Sutadji, 2024).

Legal enforcement, particularly with an anti-corruption focus, is specifically regulated under Article 30B of Law No. 11 of 2021. This article emphasizes that within its intelligence domain, the Prosecutor's Office has the authority to create conditions that ensure smooth and secure national development. Furthermore, it is tasked with preventing corrupt practices, collusion, and nepotism that could obstruct governance and development. With this authority, the Prosecutor's Office plays a critical role in fostering a conducive environment and minimizing misuse of power that could harm state interests.

The Prosecutor's legal assistance is also aligned with the principles of a rule-of-law state and the theory of authority, wherein the Prosecutor's authority is based on the prevailing legal framework (Tulangow, 2021). This demonstrates that the Prosecutor's Office functions not only as a law enforcement institution but also actively minimizes deviations through integrated preventive measures (Yusni, 2020). With a clear legal framework and formally established authority, the Prosecutor's Office is obligated to secure the national development process so that it operates effectively, fairly, and free from abuse of power, thereby supporting transparent and equitable governance.

To prevent corruption and ensure that the legal assistance provided by the Prosecutor's Office is not misused to justify unlawful acts, all requests for legal assistance must undergo thorough analysis. This analysis evaluates whether the request falls within the scope of the issues presented, whether there is a conflict of interest with the Prosecutor's authority as an investigator or prosecutor, and whether it aligns with other law enforcement domains. If indications of corruption are found, the Prosecutor's Office has the authority to decline or terminate the legal assistance provided. These provisions are specifically outlined in Attorney General Regulation No. PER-025/A/JA/2015, as updated by Attorney General Regulation No. 762 of 2021 concerning the Guidelines for Law Enforcement, Legal Assistance, and Legal Services in Civil and Administrative Law.

In the Attorney General's Regulation No. 762 of 2021, particularly in Annex Chapter V, Section B, various aspects related to legal assistance are regulated to prevent misuse that could legitimize acts of corruption. Firstly, legal assistance is not provided if it has the potential to legitimize or recognize actions related to corruption. Secondly, such assistance is limited to the scope of civil and administrative law, with the objectives of risk mitigation, sustainable governance, recovery or safeguarding of state finances, and the preparation of administrative decisions and regulations related to governance. In other words, the assistance focuses on efforts to protect state assets and enhance administrative compliance without involving actions that could harm the law.

Thirdly, if the Attorney General's Office identifies indications of criminal acts committed by law enforcement officers related to the subject matter of the assistance, the legal assistance will be terminated, and the applicant will be notified. Fourthly, legal assistance is limited to the scope and timeframe relevant to the issues raised in the application. Fifthly, the duration of legal assistance is determined to be six months, with an option for a six-month extension upon request by the applicant or principal. This regulation emphasizes that legal assistance must be transparent, focused, and in line with principles of justice and the legal interests of the state, thereby contributing positively to equitable law enforcement and preventing abuse of authority.

In the Attorney General's Regulation (Perja) No. 7 of 2021, contained in Annex Chapter V, Paragraph 3, Letter A, it is clearly stipulated that upon receiving a request for legal assistance or legal consideration, the State Attorney has the obligation to study and conduct an initial detection of indications of criminal activity in the application. Additionally, they must evaluate whether there is any connection with ongoing criminal cases or potential indications of future criminal investigations. This detection process must be carried out within a maximum of 14 working days, and the results will be communicated to the applicant to determine whether legal assistance can proceed based on the analysis.

Furthermore, if the applicant refuses or is unwilling to proceed with legal assistance, Perja No. 7 of 2021 in Annex Chapter V, Paragraph 3, Letter B regulates that the assistance or provision of legal considerations can be terminated. Termination is generally due to the applicant's non-cooperation, such as failing to provide complete and valid data or documents required during the legal assistance process. The absence of adequate data or documents can hinder the preparation of quality legal considerations, obligating the Attorney General's Office

to ensure that all necessary information is correctly provided for the legal process to proceed according to established standards..

Legal assistance provided by the Attorney General's Office plays a vital role and offers significant benefits to Ministries, State Institutions, Local Governments, and State-Owned Enterprises (SOEs). One of the primary benefits is ensuring legal certainty, legal compliance, good governance, and the prevention of corruption (Saputra et al., 2019). Additionally, this legal assistance is provided without charging service fees or success fees, thus not burdening the budget of the requesting party. Moreover, the Attorney General's Office is responsible for mitigating legal risks related to emerging issues, safeguarding or recovering state finances or assets, and supporting the formation of administrative regulations and policies in accordance with prevailing laws. Through these efforts, the Attorney General's Office can help reduce legal risks that could potentially harm state finances (Fachri, 2023).

Legal assistance also facilitates coordination and requests for data or documents related to legal issues from various involved agencies. The Attorney General's Office has the authority to directly represent cases in court without undergoing exams or registration as lawyers or legal advisors, as authorized by statutory provisions. This allows for the swift and effective resolution of various legal barriers. Additionally, this assistance serves as a shield against potential internal and external interference that may influence the resolution of issues. In essence, the Attorney General's Office's role in providing legal assistance creates a more transparent, accountable, and resolution-oriented environment free from the influence of parties that could harm public and national interests (Fachri, 2023).

The authority of the Attorney General's Office in the fields of civil and administrative law for providing legal assistance involves two approaches based on the characteristics of the projects handled. The first is active assistance for national strategic projects, which is mandatory for the Attorney General's Office, and the second is passive assistance for regional strategic projects, provided upon request by Regional Work Units (SKPD). Based on Article 18 of Law No. 11 of 2021, which amends Law No. 16 of 2004 on the Attorney General of the Republic of Indonesia, the Attorney General's Office has the authority to act as the State Attorney in civil, administrative, and constitutional matters across all levels of courts, both in litigation and non-litigation contexts. This authority serves as a basis for assisting the state's interests through legal assistance in strategic projects managed by the government, ensuring legal certainty, compliance with regulations, and preventing practices such as corruption.

Active legal assistance in national strategic projects is conducted periodically to ensure smooth project execution in accordance with applicable laws, based on principles of good governance and risk mitigation to minimize potential deviations or losses. The Attorney General's Office carries out this function through coordination with the Directorate of Strategic Project Safeguarding under the supervision of the Deputy Attorney General for Intelligence, in response to Presidential Instruction No. 1 of 2016 on the acceleration of national strategic projects. This approach enables the Attorney General's Office to act not only as a law enforcement institution but also as a body minimizing obstacles in development projects through prevention, evaluation, and legal risk mitigation at various project stages.

Meanwhile, passive assistance is provided by the Attorney General's Office upon request from SKPD or local government agencies requiring legal support to ensure the continuity of regional projects involving development interests. In this case, the Attorney General's Office is not obligated to provide routine assistance but acts based on an analysis of the submitted request. This authority allows the Attorney General's Office to offer legal considerations or mitigate risks related to state asset recovery, regulatory drafting, and legal dispute resolution affecting the continuity of regional projects. In delivering such assistance, the Attorney General's Office must ensure there is no internal or external interference to safeguard transparency and accountability in serving public and local government interests.

The authority of the Attorney General's Office, clearly regulated through Attorney General's Regulations and Laws, includes detecting potential legal risks in every request for assistance. It also includes the authority to reject applications for assistance with indications of corruption or conflicts with prevailing legal principles. Referring to the provisions of Attorney General's Regulation No. 762 of 2021, various aspects of legal assistance, such as early detection, risk mitigation, and time limitations, are addressed. Moreover, all legal assistance must be conducted transparently and based on a thorough evaluation to minimize abuse of authority. Through this approach, the Attorney General's Office can effectively support the smooth execution of national and regional strategic projects while ensuring legal compliance, accountability, and equitable governance are maintained.

The authority of the Attorney General's Office in civil and administrative law to provide legal assistance involves two approaches determined by the characteristics of the projects handled, which must be clearly regulated through firm and comprehensive regulations. Active assistance is mandatory for national strategic projects and involves a structured approach, while passive assistance is for regional strategic projects, provided upon request by SKPD. In line with Article 18 of Law No. 11 of 2021, the Attorney General's Office acts as the State Attorney in civil, administrative, and constitutional matters across all levels of courts. To ensure legal certainty and prevent deviations, revisions to the Attorney General's Regulations and the issuance of additional specific regulations are necessary. These include rules governing early detection of legal risks, rejection of requests with indications of corruption, and the implementation of transparent risk mitigation measures. For instance, regulations such as Attorney General's Regulation No. 762 of 2021 need to incorporate more detailed provisions on the limits of assistance, early detection of legal risks, and application evaluation procedures based on comprehensive assessment. In this way, the Attorney General's Office can perform its duties effectively, fairly, and with integrity while ensuring legal compliance, accountability, and governance remain transparent and highly accountable.

Structural

As a law enforcement institution, the Prosecutor's Office holds a critical position in ensuring an effective legal enforcement system, not only in its repressive aspect but also in its preventive aspect (*ultimum remedium*) (Moho, 2019), this aligns with the goals of modern sentencing, where sanctions are placed as a last resort, while preventive efforts are still emphasized to avoid legal violations or crimes across various subsectors (Arliman, 2020).

Therefore, structurally, the Prosecutor's Office must position itself as a professional and integrity-driven law enforcement institution. Professionalism and integrity are key to achieving the legal objectives outlined by Gustav Radbruch, namely justice, certainty, and utility (Taringan, 2024). Indicators of professionalism and integrity for the Prosecutor's Office include refraining from engaging in compromises or roles beyond those mandated by laws and regulations.

One of the key roles currently undertaken by the Prosecutor's Office is providing legal assistance for the implementation of National Strategic Projects (*Proyek Strategis Nasional*, PSN) and Regional Strategic Projects (*Proyek Strategis Daerah*, PSD). This role supports the smooth execution of government development projects with significant impacts on public and national interests. Through such assistance, the Prosecutor's Office not only focuses on sanction enforcement (*primum remedium*) as part of law enforcement but also adopts a more proactive approach by emphasizing preventive measures (*ultimum remedium*) (Islami et al., 2024). This approach aims to detect and mitigate legal risks early, prevent deviations, and ensure compliance with regulations and good governance principles at every stage of the project (Harmen, 2023). By performing this function, the Prosecutor's Office actively reduces obstacles and potential risks while fostering a transparent, accountable, and equitable governance environment.

The legal assistance also aims to minimize irregularities and corruption through effective monitoring, in-depth legal analysis, and collaboration with various stakeholders to ensure that strategic projects operate optimally and in accordance with applicable regulations. Structurally, the authority of the Prosecutor's Office in Civil and Administrative Law in providing legal assistance for the implementation of both national and regional strategic projects must be optimized. This can be achieved by functionalizing the Civil and Administrative Law Division through the establishment of Strategic Development Safeguard Teams (Tim Pengamanan Pembangunan Strategis, PPS) at all levels of the Prosecutor's Office on an ad hoc (temporary) basis. These teams are tasked with responding to requests for legal assistance submitted to the Prosecutor's Office by ministries, agencies, local government units (Satuan Kerja Perangkat Daerah, SKPD), and/or state or regional-owned enterprises involved in strategic projects.

Operational

Legal assistance provided by the Prosecutor's Office is crucial for the smooth implementation of PSN and PSD programs. To operationalize this mechanism, researchers propose several recommendations. Legal assistance by the Prosecutor's Office becomes active when the object involves National Strategic Projects, as stipulated in legal regulations. Legal assistance plays a strategic role as a critical task of the Indonesian Prosecutor's Office in ensuring the smooth implementation of national strategic projects. As State Attorneys, the Prosecutor's Office is obligated to ensure that projects comply with applicable regulations, reduce the risk of deviations, and establish legal certainty at every stage of the national strategic projects.

To ensure that this task is carried out effectively and efficiently, specific, clear, and systematic guidelines and SOPs are required. These guidelines should support each stage of legal assistance, from the submission of requests, initial analysis, to final evaluation. The SOPs aim to ensure transparency, accountability, and legal compliance throughout the legal assistance process (Husin, 2022).

Requests for legal assistance are submitted by relevant institutions, such as ministries, state agencies, local governments, or state-owned enterprises (BUMN), in written form, accompanied by clear information, including project descriptions, objectives of the assistance, data on project locations and budgets, and potential legal risks. These requests are verified by authorized teams within the Prosecutor's Office through document completeness and validity analysis. If the request meets the requirements and aligns with the authority outlined in regulations, the Prosecutor's Office proceeds with the legal assistance; otherwise, non-compliant requests are rejected or terminated.

Once the request is deemed valid, the Prosecutor's Office conducts an initial analysis to detect relevant legal indications and study the complexity of the request. This analysis evaluates potential legal risks and determines the scope of the legal assistance. If the analysis identifies legal deviations or criminal acts, the Prosecutor's Office has the authority to terminate the assistance while providing explanations to the applicant, ensuring transparency and accountability. Subsequently, the legal assistance focuses on mitigating legal risks, protecting state assets, and developing policies and legal compliance to ensure the project runs smoothly.

Legal assistance is provided for a maximum duration of six months, with an option for extension if necessary. During this period, regular evaluations are conducted to ensure the effectiveness of the assistance, adherence to regulations, and adjustments to legal strategies if challenges arise. A final evaluation is conducted at the end of the assistance to assess how well the assistance has mitigated legal risks and minimized project obstacles. The evaluation report is submitted to the applicant and relevant parties to ensure transparency and accountability.

Throughout this process, the Prosecutor's Office adheres to the principles of transparency, legal compliance, accountability, and neutrality. Transparency ensures that all

processes are accountable to applicants and relevant parties; legal compliance ensures all actions are based on applicable regulations; accountability ensures the Prosecutor's Office is responsible for its actions; and neutrality ensures assistance is conducted impartially, prioritizing the interests of the state and society.

CONCLUSION

Ideally, the authority of the Attorney General's Office in the fields of Civil and Administrative Law to provide legal assistance for the implementation of national strategic projects must strengthen both the substantive and structural aspects of its authority. According to Article 18 of Law No. 11 of 2021, the Attorney General's Office acts as the State Attorney in litigation and non-litigation matters for the interests of the state, government, or the public. Legal assistance is carried out through the safeguarding of national strategic projects by the Directorate of Strategic Project Safeguarding under the Deputy Attorney General for Intelligence, as well as through the Directorate of Civil Affairs, which provides legal opinions and risk mitigation, in line with regulations such as the Attorney General's Regulation No. 762 of 2021. This role signifies a paradigm shift in legal approaches from a repressive to a preventive focus, ensuring that strategic projects are implemented in compliance with regulations, minimizing deviations, and supporting good governance and sustainable development. Structurally, the Attorney General's Office must ensure the function of *ultimum remedium* through inter-unit coordination, strict supervision, risk detection, and evaluation of assistance requests, including rejecting assistance if indications of criminal offenses are found. With a robust structure and comprehensively updated regulations, the Attorney General's Office can perform its role transparently, accountably, and effectively, contributing to national development that upholds integrity and justice.

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