 **Jurnal Hukum dan Pembangunan Ekonomi, Volume 12, Nomor 2, Year 2024**
**ISSN (Print) 2338-1051, ISSN (Online) 2777-0818**

**RESEARCH ARTICLE**

# Confirmation of State-Owned Enterprise Finances as State Finance to Strengthen Attestation of Criminal Acts of Corruption in State-Owned Enterprises (SOEs)

Prabowo Setyo Aji, Hartiwiningsih

Faculty of Law Universitas Sebelas Maret, Surakarta, Indonesia
Jl. Ir. Sutami 36 Kentingan, Jebres, Surakarta, Jawa Tengah. Indonesia 57126

✉ bowo.setyoaji12@student.uns.ac.id, hartiwiningsih@staff.uns.ac.id

## ABSTRACT

*The researcher looks at the presence of state funds under the supervision of State-Owned Enterprises, which clearly still generates different interpretations of the matter of state financial situation. The researcher became interested in doing a legal study to assist in attesting elements of state financial losses in criminal activities of corruption inside State-Owned Enterprises. This paper aims to investigate and comprehend the presence of state finances in State-Owned Enterprises to support the attestation of aspects of state financial losses in State-Owned Enterprises in addressing criminal actions of corruption. Analyzing the legislative and case approaches helps one to adopt a normative juridical writing style. Since State-Owned Enterprises officials with strategic duties and authority and a significant part in the running of the national economy commit corruption offenses, they constitute a type of corruption as an unusual crime. Under the application of the unique nature of Lex Specialis of the Corruption Eradication Law, which follows the flow of state finances wherever the money is located, efforts aiming at strengthening attestation of state financial losses under the management of State-Owned Enterprises declare losses resulting from unlawful acts or fraud as state losses.*
***Keywords :*** *State Finance, State-Owned Enterprises, Corruption Crime.*

# INTRODUCTION

Search engine optimization (SEO) is crucial in producing goods and services that society needs to achieve its maximum potential wealth. Search engine optimization (SEO) plays a practical role in the operations of businesses in almost every economic sector. This includes agricultural, forestry, plantation, manufacturing, mining, finance, transportation, industry and commerce, construction, and post and communications. The goal of SEOs within Indonesia's national economic framework is to enhance the quality of life for their inhabitants by maximizing possibilities and promoting collective welfare. Nevertheless, the adoption of SEOs has been hindered by certain people who have engaged in criminal corruption. Offenders abound among middle- and upper-level SEO officials who violate

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

**ISSN (Print) 2338-1051, ISSN (Online) 2777-0818**

the law to pursue personal benefit at the state's expense via the misuse of SEO management and administration. It may benefit the state if corruption operations inside the SEOs were structured and carried out systematically. In several instances involving the theft of public funds, the Court has found that SEOs were guilty of criminal corruption. For example, states in Indonesia lost 16.8 trillion rupiah due to corrupt activities that included investments from Asuransi Jiwasraya LLC that were handled and settled by the Indonesian Prosecutor's Office between 2008 and 2018. This is just one instance of the massive economic damage the SEO industry has inflicted upon the state. Just when you thought things were looking brighter, the issue of illegal and corrupt practices in the community has flared up again. By 2016, the Indonesian Prosecutor's Office had once again discovered and settled a criminal case about the misappropriation of 22.7 trillion rupiah in public monies via the investments of Asabri LLC. Between 2016 and 2019, the Indonesian Fisheries Corporation was involved in financial and business management activities, including bribery. This and other incidents of corruption inside SEOs cost the government 176 billion rupiah, or about USD 279,891.50. The exposure of corruption among SEOs highlights the systemic problems that surround SEOs. The SEO sector is rife with illegal activity, and not only does it drain public coffers, but the methods used to carry it out are varied and intricate. Corruption perpetrators are so bright that they collude with their friends while keeping their wrongdoings a secret. Regarding criminal acts of corruption inside SEOs, particularly concerning criminal acts of bribery injurious to state finances, it is evident that opinions on the issue of state financial situation within SEOs diverge. Within SEOs, documented criminal corruption charges must prove state financial losses, "The definition of state currency and state financial deficits." Nevertheless, there are often divergent opinions amongst the various parties about the boundaries of state funds and the methods for demonstrating state financial losses, making it challenging to interpret state funds and prove state financial losses [1].

Various laws and regulations approach the administration of state finances in SEOs from multiple perspectives, which leads to disagreements about how much of the state's funds are held by SEOs in the form of independent assets. At least six (six) statutes govern the state's assets and funds, which are overseen by BUMN: Firstly, broadening the scope of state finances encompasses all assets owned by the government, regardless of their form or whether they are managed separately, including those held by legal companies. This is because the General Explanation of the Corruption Eradication Law adopts the wording of the State Finance Law. Furthermore, the Finance Law explicitly includes assets not associated with state firms in calculating public budgets, as outlined in Article 2 letter g. Furthermore, according to Article 4 Paragraph (1), the SEO legislation stipulates that the formulation and implementation of the bill are grounded in robust business principles. Nevertheless, the State Budget mechanism will cease to fund the State Capital Participation in SEOs, ensuring enhanced guidance and supervision. Article 11 of the SEOs Law and Article 1 of the Limited Liability Company Law provide that the funds belonging to the capital owner are legally transformed into the property and assets of the LLC. The limited liability corporation is subject to all the laws and restrictions the Limited Liability Corporation Law sets. As the separated state assets have been transformed into shares, they now form the capital of the SEOs or LLCs, separate from the State Budget. Therefore, the State Budget mechanism is no longer used to invest in these companies. Article 2 A, namely

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

Paragraphs (1) and (3), together with their respective explanations, as well as Paragraph (4) of the same article, collectively form the fifth point. The government has issued regulations numbered 72 of 2016, which amended regulations numbered 44 of 2005. These regulations pertain to the procedures for participating and administrating state capital in SEOs (State-Owned Enterprises) and limited liability companies. Additionally, the Constitutional Court has made six decisions regarding these regulations, affirming that state assets in SEOs are considered part of the state assets that determine the scope of state finances [2]. Based on differing opinions on how SEOs manage state funds, the researcher hopes to publish an article that confirms SEO finances as separate state assets to bolster the attestation of corrupt criminal acts in SEOs.

# METHOD

This work uses normative research, study that uses both a statutory approach and a case approach; it is also known as doctrinal research. To use both methods, one must investigate all statutes about the subject matter of the case. The information used in this study came from library research, which included locating and compiling pertinent legal resources from a variety of sources, including but not limited to: information, scientific articles, government records, papers, journals, mass media, the internet, and other suitable legal sources.

# RESULT AND DISCUSSION

A constitutional obligation for everyone in the country is to promote prosperity for all people as prescribed in the Preamble to the 1945 Constitution, which is further controlled in Article 33. Establishing a business entity and managing operational activities in the industrial and strategic business sectors, which we know as SEOs, helps us to increase control of all national economic forces both through sectoral regulations and through state ownership of business units to provide maximum benefits for the prosperity of the people mentioned above. SEOs help create commodities and/or services required to realize society's highest level of prosperity in the national economic system. As pioneers and/or trailblazers in fields that have yet to be of interest to private companies, SEOs are seen to be ever more vital. In addition, SEOs play a crucial role in the strategic implementation of public services, the check and balance of the robust private sector, and the encouragement of the growth of cooperatives and small enterprises.

In Indonesia, SEO began during the Dutch colonial period. First called "Nederlandsch-Indische Spoorweg Maatschappij" to construct an Indonesian railway line. Following Indonesia's independence in 1945, the Government opted to nationalize several Dutch businesses, including Pertamina, an oil corporation, and the National Electricity Corporation. Apart from that, the Government also started fresh state-owned companies such as Semen Indonesia and Garuda Indonesia. SEOs were somewhat crucial in national development throughout the New Order era, particularly in infrastructure development and natural resource management. However, SEOs also suffered a significant financial crisis

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

alongside the conclusion of the 1990s economic recession. Since the reform era, improving corporate governance and raising operational efficiency have helped the government reform SEOs. Launched in 2003, the Government's SEOs restructuring initiative aimed at enhancing corporate performance and fostering overseas investment. Hundreds of SEOs in Indonesia work in energy, mining, transportation, and telecommunications. Among Indonesia's highest SEOs are Pertamina, Telkom Indonesia, and National Electricity Company (PLN). Although they are still crucial for national growth, they should continue to improve Indonesian society. SEOs are Three [3]. The way SEOs are formed in Indonesia is comparable to their application in Australia and Singapore. Government business enterprises (GBEs) in Australia are known as state-owned businesses (SOEs), whereas in Indonesia they are called BUMN. In Australia, The Department of Finance and Deregulation (DOFD), sometimes known as the Ministry of Finance, is responsible for establishing Government Business Enterprises (GBEs), often known as SEOs. The organization is headed by a Minister, and the Secretary is responsible for day-to-day operations. The two main types of SEOs in Singapore are GLCs, or government-linked companies, and Statutory Boards.

Like Indonesia's Persero, GLCs are structured as private companies, with the government as a shareholder and the duty to generate profits falling on them. GLCs are housed under holding corporations to guarantee broad autonomy for management in managing the businesses it owns. Most of these are subsidiaries of Temasek Holdings, most of which have total independence in their business operations; "Paper companies" that have little absolute sway on the day-to-day operations of their GLC subsidiaries are known as holding companies. Despite being a private company, the Singaporean government owns 100% of Temasek Holding [4]. Article 9 of the SEOs Law specifies that SEOs may be public companies (Perum) or limited liability companies (Persero). A public company is one kind of SEO; in this case, the state owns all of the capital, and no stock units are issued. This SEO approach seeks to adhere to traditional business procedures to generate a profit and provide high-quality goods and services to the public. The money is split into shares in a limited liability corporation, another form. All or almost all of the shares in this instance are owned by the Republic of Indonesia. The main objective of this type of SEO is to pursue profits. As a public legal entity and power structure, the State is judicially obligated to abstain from engaging in corporate operations since this would undermine its ability to provide public goods and services. Hence, being both a public body and a civil legal entity, the State will be adaptable in its pursuit of continued commercial operations independent of State Finance. Thus, SEOs (autonomous legal entities) are businesses that the State may legitimately establish [5].

SEOs contribute to producing commodities and services necessary for society to achieve its maximum potential within the framework of the national economy. People see SEOs as increasingly crucial since they are innovators and trailblazers in industries where private firms have not shown interest. SEOs greatly aid government operations, private sector management, and the growth of mom-and-pop stores and cooperatives. Profits from privatization, dividends, and other taxes also significantly impact government finances. There are social and economic objectives for the state that is developing SEOs. According to Article 33 of the 1945 Constitution, establishing an economic SEO provides a level playing field in strategically critical commercial areas like energy, oil, and natural gas, which

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

impact many people's lives. Establishing SEOs is anticipated to boost employment prospects, draw in clients, and spend money at the federal and state levels. One kind of company is the limited liability company (LLC), formed to make a profit and is subject to all regulations about such entities. The other is the public company, created by the government to carry out its responsibility of providing certain goods and services to the public. There are two main ways in which SEOs operate as businesses: providing public benefits and making a profit. Even if their mission is to benefit society, public companies are nonetheless required by Ministerial Regulation No. to pursue profitability and sustainability if they want to remain autonomous. According to PER-4/MBU/03/2021, the Republic of Indonesia's SEOs comprise twelve categories of companies and service providers, as stated in the Organization and Work Procedures of the Ministry of SEOs. Among these groups are: The following subfields are included inside this field: First, natural gas, petroleum, and fuel; second, rocks, coal, and agricultural and forestry products; third, 4) Dietary Supplements and Nutrients; 6) Productivity. 5) Well-being, 7) Financial services, including banking and insurance, 8. 9) Information and communication technology, and 10 Infrastructure-related services, 11. Logistics Services 12) Transportation and Affiliated Services.

There are two (two) perspectives on financial management in SEOs: the public law perspective and the private law perspective. Considering the SEOs Law and the State Finance Law from a public law perspective, legislative laws express viewpoints about the financial administration of SEOs. State finance is defined in the State Finance Law as all monetary rights and responsibilities of the state, as well as any property, whether financial or otherwise, that may be acquired by the state to carry out these rights and obligations. The State Finance Law takes a comprehensive view of state finances since it seeks to safeguard public wealth funded by taxes, levies, and non-tax state income. W. Riawan Tjandra addressed the limitations of current law by stating that the coherence of the comprehensive state finance formulation was aimed at extending the idea of state finances [6]. All investments made by the state or a regional entity, whether in cash, securities, receivables, goods, or other rights with a monetary value, including assets not directly held by a state or regional company, are encompassed in SEOs Financial Management, according to Article 2 letter g of the State Finance Law. In its rulings 48/PUU-XI/2013 and 62/PUU-XI/2013, the Constitutional Court upheld the constitutionality and appropriateness of the regulations about the assets and finances of SEOs. The rulings also established that the assets and funds controlled by SEOs, even after division, remain part of the state's finances. Law on State Finances An example of a constitutional requirement that has effectively ensured the realization or maintenance of many people's lives is Article 2 letter g. As stated in Article 33 paragraph (2) of the Republic of Indonesia's 1945 Constitution, the "separated wealth in state companies/regional companies" concept is enshrined in the State Finance Law, specifically Article 2 letter g (2). The wealth and finances of BUMN are regulated by regulations that are considered state finance according to both Decision 48/PUU-XI/2013 and Decision 62/PUU-XI/2013 of the Constitutional Court. The state's budgetary policies are reasonable and justifiable. Many lives have been fulfilled or preserved because of the constitutional requirement, as shown in Article 2 letter g of the State Finance Law. All entities authorized by the House of Representatives to represent the people in budgetary or supervisory capacities and those wanting to enhance

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

or reduce their state capital participation in SEOs must adhere to the processes outlined in the State Finance Law.

When managing SEO finances, there are two categories: public and private legislation. From a public law perspective, legislative statutes like the SEOs Law and the State Finance Law direct the financial management of SEOs. The State Financing Law provides a clear and concise description of state financing. The term encompasses all the privileges and duties of a state, quantifiable in terms of monetary worth, as well as any assets or funds that the state may own to fulfill these rights and obligations. State finances are interpreted broadly or comprehensively in the State Finance Law to safeguard state wealth, funded by taxes, levies, and non-tax state income. W. Riawan Tjandra says that the purpose of a more comprehensive definition of state finances is to fix the problems with the existing laws, which is why the general state finance formulation is consistent [6]. Despite SEO shares being categorized as part of state finances, it is essential to recognize that the State Finance Law's extensive and inclusive definition of state finances should be used as a reference for all aspects of finances, including SEO financial management. This ensures that no one can legally dispute that state assets are indivisible or distinct. Law Number 20 of 2001, which amends Legislation Number 31 of 1999, controls eradicating corruption crimes involving state finances. *State funds* are defined as all state-owned assets, whether or not they are divided, and this definition has changed due to the legislation's provisions. This document encompasses all state assets, including their associated rights and responsibilities. These assets may fall under the control, management, and accountability of officials at the central and regional levels of state institutions, or they may be under the control, management, and responsibility of foundations, SEOs, regional-owned enterprises, legal entities, and businesses that have state capital or third-party capital as a result of an agreement with the state. The State Finance Law and the Law on the Eradication of Corruption Crimes have established legal certainty. Gustav Radbruch's theory defines *legal certainty* as the "Scherkeit des Rechts selbst," which translates to "legal certainty," indicating that the law is based on positive principles. Although state assets held as capital participation in state-owned enterprises (SOEs) are included in Germany's state finance formula, these assets should be classified separately by the applicable laws and regulations. Legal precedent refers to the principle that previous court decisions serve as a binding rule of law. To deter criminal acts of corruption, these two laws and regulations aim to ensure comprehensive State oversight over all sectors of public finance.

There are two schools of thought regarding whether or not they have jurisdiction over state finances. One emphasizes the actual application of specific state resources. Public law advocates argue that public law applies to state-owned enterprises (SOEs), even if organized as limited liability corporations. On the other hand, the academic right interprets this as proof that state-owned enterprises (SOEs) structured as limited liability firms should be subject to private law. This is because the state acts as a private legal entity while engaging in economic activities. Controversy arose due to the perception that holding shares in state-owned firms still constituted state wealth. While discussions of state finances may sometimes be associated with laws concerning State-Owned Enterprises (SOEs), especially when these firms follow the guidelines specified in the Limited Liability Company legislation, it is essential to note that SOE law does not determine state finances. The term "SEOs," which stands for State-Owned Enterprises, refers to companies where the state

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

has a majority or complete ownership of equity by direct involvement using assets separated from the state. This definition is stated in Article 1, number 1 of the SOEs Law. Furthermore, according to Article 4, Section 1, "State-Owned Enterprises (SOEs) obtain their capital from state assets that the State Finances have separated. The guidance and management of SOEs are then based on sound corporate principles, rather than the State Finances system." The State-Owned Enterprises (SOEs) Law restricts the use of privatized state assets. "Separated" means taking state assets out of the State Finances and using them as capital for state participation in SOEs, according to the SOEs Law. This guarantees that these SOEs' management and direction adhere to good corporate practices rather than the State Finances system. You can find the definition in paragraph (1) of Article 4).

According to some experts, the provisions stated in Article 4 paragraph (1) and Article 11 of the SOEs Law are the initial basis for interpreting state assets' transformation into state-owned company assets. These assets are no longer considered state finances because the Limited Liability Company Law manages state-owned enterprises (SOEs). From this vantage point, state-owned enterprises (SOEs) transferred wealth is no longer considered state funds but rather the property of a separate legal entity. Dian Puji Simatupang claims that when the state as a private legal entity decides to invest its capital in shares in a limited liability company, whether 51% or all of it, the state's immunity is lost at that moment. Public law is cut off from the finances which have changed in the form of shares. Likewise, Law Number 40 of 2007 guides and automatically applies the clauses for management, responsibility, and financial audit in the form of shares; all requirements of relevant laws and regulations in the Republic of Indonesia also guide and apply. Since public finance had been replaced with private money, this condition resulted in severing the finance invested in the limited liability company as state finance, changing its legal status to limited liability company finance. Likewise, suppose a limited liability company pays taxes or shares of business profits. In that case, initially, private money enters the state treasury simultaneously, transforming from private funds to public money, and is automatically subject to the terms of state financial regulations [7].

However, concerning the elimination of corruption in particular, the legal structure of Indonesia is compatible with its principles and programs. Djoko Sumaryanto states that these guidelines are established based on two interpretations of the Corruption Eradication Law. Preventing corrupt practices from becoming worse is the primary goal. Many hold the view that people ought not to be dishonest. Therefore, repressive measures include retrieving as much of the state's stolen money as possible and punishing criminals severely [8]. Because it is hard to prove, crime in the SOE sector is unique. This is because several governmental financial irregularities are involved in illegal operations involving state-owned enterprises (SOEs). Since SOEs and ROEs engage in considerable commercial activity throughout a wide range of economic sectors—including agriculture, forestry, manufacturing, mining, banking, transportation, electricity, industry and commerce, construction, and more—these anomalies are becoming more complex. Corruption in the banks, taxes, capital markets, commerce, commodities futures, and monetary and financial sectors is also a crime. Also, the State Administration is involved with corrupt individuals in the SOE and ROE sectors. The law against nepotism, corruption, and collusion in state administration explains this in Article 2, point 7. This implies that other high-ranking state officials are also vulnerable to nepotism, corruption, and collusion due to the nature of their

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

positions and their power to manage the state administration. First, the chief executive officers, directors, and other senior-level executives of SEOs and locally held companies; second, the chairman of Bank Indonesia and the chairman of the Bank Indonesia Restructuring Agency; third, the heads of state universities; fourth, Echelon I officials and similar officials in the civilian, military, and police forces of the Republic of Indonesia; and so on. From five to eight, we have the prosecutor, the investigator, the court clerk, project managers, and financiers. Whether via sectoral regulations or government control of specific business units, state administrators manage state-owned enterprises (SOEs) for the benefit of the public. This includes directors, commissioners, and other structural authorities. Their primary purpose is to maximize public wealth while considering the interests of state-owned companies (SOEs) and return on equity (ROEs).

The Eradication Law deals with the state's finances, including its assets (in SOEs) and its losses, while the Corruption Crime Law specifies limits and standards for how the courts should interpret these laws. Taking part in corrupt activities is a crime. SOEs and ROEs oversaw state and regional funding, although the suspect and his attorney often had reservations about them. Nevertheless, due to the separation of SOEs and ROEs, state and regional funds shifted to limited liability companies. Despite the change in legal emphasis from public to private funds, the courts have maintained that state funds should include autonomous state money. Decisions 48/PUU-XI/2013 and 62/PUU/XI/2013 of the Constitutional Court maintain that public finances, including assets owned by the public and managed by SOEs, remain a component of the total state budget. There is no space for confusion in the State Finance Law's exhaustive definitions of "state finances" in Articles 1 and 2. The Corruption Eradication Crime Act imposes stringent requirements on law enforcement to forestall the embezzlement of public monies by corrupt individuals or groups within ROEs, SOEs, and other businesses, including SOE subsidiaries. No matter where public funds go, the Lex Specialis restrictions will follow, even through a nonprofit. State wealth management institutions typically refer to distinct state-owned enterprises (SOEs), their subsidiaries, or any derivatives of these entities. They fall under the umbrella of "separate state wealth management," a subset of state financial management institutions. Regarding state assets, good corporate governance dictates that the relevant institutions adhere to the regulations in their respective statutes. This is accomplished by consulting the best practices in good governance suitable for the particular type of institution in question. Pay attention: if we take a good, hard look, it appears the government is based on the tried-and-true methods of sound public finance, or "good practice of public finance." These rules apply universally. Similarly, the administration of independent State assets is exempt from the provisions of the State Finance Law (Law No. 17 of 2003, Law No. 1 of 2004, and Law No. 15 of 2004). When handling state assets, however, the relevant institution must adhere to the standard procedures for handling state funds.

The corruption court has ruled that BUMN money or assets should be considered state finances in several cases involving BUMN.

1) *The corruption case centers on the misuse of PT ASABRI's funds and company finances from 2012 to 2019. Former TNI Major General Adam Rachamat Damarir is facing charges in this matter. Always remember that PT ASABRI is an SOE or a state-owned enterprise. The Indonesian government owns 100% of it through the Minister of State for BUMN. Therefore, if PT ASABRI incurs losses, the state must also pay for them [9].*

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

2) *PT Asuransi Jiwasraya (Persero) financial management and investment funds lawsuit involving defendant Dr. HENDRISMAN RAHIM occurred between 2008 and 2018. The Articles of Association of PT Asuransi Jiwasraya and the State-Owned Enterprises Law No. 19 of 2003 form the basis of this case. Since PT Asuransi Jiwasraya's capital was established by direct participation from separate state assets, it is evident that this capital is state property according to this legislation. The state-owned life insurance company PT Asuransi Jiwasraya specializes in Indonesian plans that follow Islamic law. Its fundamental goal is to provide high-quality services while staying ahead of the competition. The corporation seeks to increase its entire worth and make profits by the principles of Limited Liability Companies [10].*
3) *This pertains to the criminal acts of corruption in the Apartment, Housing, Hotel, and Split Stone Supply projects conducted by PT Graha Telkomsigma between 2017 and 2018 under the authority of Defendant BAKHTIAR ROSYIDI. The consideration for this case is that PT. The company is state-owned because the State of Indonesia owns most of Telkom Indonesia Persero (Tbk.) through direct investments in state assets. The State turns its stake in PT. Telkom into shares or capital in the company to use state assets as capital. So, PT's assets were changed from PT. Telkom's cash or shares. Telkom. When it comes to ownership, PT. Telkom owns most of PT. Multimedia Nusantara, which is also known as Telkommetra. So, the rules in PP Number 72 of 2016 apply to Telkommetra and its parent company, PT. Telkom, when it comes to running the business. These rules explain the changes made to PP Number 44 in 2005. This document controls how state capital is put into SOEs and LLCs and how it is managed. Both Telkomsigma and PT. Graha Telkom Sigma is a wholly owned subsidiary of Telkommetra, a state-owned company (BUMN). Though the State doesn't actually own any shares in Telkommetra, the cash and shares of the company are based on the State's holdings in PT. Telkom, so it is thought of as a straight investment. Thus, a unified and interdependent corporate structure is established by Telkommetra's ownership position in PT. Sigma Cipta Caraka, and then by PT. Sigma Cipta Caraka's metamorphosis into PT. Graha Telkomsigma. Even though each company has its own identity and may stand on its own two feet in court, they are economically related. This connection is shown in a consolidated financial statement that includes the parent company, its subsidiaries, and subsequent generations of the state-owned enterprise. The profits and losses incurred by subsidiaries, grandchildren, and great-grandchildren of State-Owned Enterprises (BUMN) directly or indirectly impact the parent company. The well-being of the descendants of State-Owned Enterprises (SOEs) will directly affect the overall health of the SOEs themselves. Similarly, any health issues faced by the descendants of SOEs will also negatively affect their financial performance. The significance of the influence caused by the State-Owned Enterprise's descendants' performance is unimportant. What matters is that the financial balance of the descendants is consolidated with the parent company, which affects the overall financial balance of the State-Owned Enterprise. In this case, the Panel of Judges believes that the descendants of the State-Owned Enterprise are experiencing financial losses. Part of the losses incurred by State-Owned Enterprises. According to Law Number 1 of 2004 regarding the State Treasury defines a state loss as a distinct and measurable deficiency of funds, securities, or assets that results from illegal activity, whether deliberate or negligent. From this vantage point, the focus on state losses indicates losses due to illicit activities, whether intentional or not. Because of this, it's clear that not all financial losses State-Owned Enterprises experience are solely state losses. When losses happen in managing state assets that have been split, it can make it harder for the company to make money. Harmful actions must be reviewed in line with professional standards (rules of professional reasoning). According to the State Finance Law, losses that happen while managing different State assets can be considered State losses. These losses are not caused by choices or rules made to reach goals,*

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

**ISSN (Print) 2338-1051, ISSN (Online) 2777-0818**

*like running a business with Good Corporate Governance. Instead, they are caused by unlawful acts, such as fraud and negligence in financial management (financial fraud). According to State Finance Expert Siswo Sujanto, in state finance, the phrase refers specifically to state assets that are administered collectively, such as state enterprises or State-Owned Enterprises. Thus, there is always an absence of differentiation between parents, children, grandchildren, and great-grandchildren. Therefore, the damages incurred by the descendants of state-owned firms due to illegal activities (fraud) are nevertheless recognized as losses to the State [11].*

As noted in the explanation of Law Number 17 2003 about State Finances and also expressly stated in Article 2 letter g, state finances encompass state assets that are divided, located, and controlled by SOEs. The exclusive use of the term about state finances is about the corporate management of independent state assets, specifically state corporations. So, as long as the company is a state-owned enterprise (SOE), there is no differentiation between the parent, children, grandchildren, and great-grandchildren of the SOEs or any other entity, including those who were born into the company from capital that came from the State Finances or the SOEs' participation in capital, and those who receive or use state facilities. According to the criminal chamber's legal formulation in Supreme Court circular number 10 of 2020, losses from state-owned enterprises (SOEs) that do not receive or use state facilities, as well as those whose capital does not come from the state finances or are not capital participation from SOEs, are not considered state financial losses. However, suppose losses arise from SOEs that receive or use state facilities or whose capital comes from the state finances or SOEs/SOEs capital participation. In that case, these losses are considered state financial losses.

Consequently, state-owned enterprises (SOEs) continue to be considered as having suffered losses due to fraud or criminal conduct, even if those losses have passed on to the company's offspring or great-grandchildren. The destruction of society's sense of justice as a consequence of wicked acts that weaken trustworthiness is the principal problem that requires implementing criminal law procedures to handle corrupt activities in state-owned enterprises (SOEs) that cause financial losses for the state. In economic development, this is in keeping with the government's ongoing efforts to eradicate corruption through legal means, providing welfare for the people.

It is essential to prove factors "which are detrimental to state finances or the state economy" in corruption cases involving SOEs, as stated in Article 2 paragraph (1) and Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. This requirement is accompanied by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. As a result, the state must suffer monetary losses due to formal and material unlawful acts stemming from abuse of power, opportunities, or facilities associated with the crime. Those responsible for the corrupt practices within SOEs have become richer due to their illegal actions. There is no necessity to prove anything because the factors "which are detrimental to state finances or the state economy" are alternatives to either state finances or the state economy. Although this factor can be seen as a substitute, meaning that proof of either "harming state finances" or "harming the state economy" is enough, it is certainly within the realm of possibility that evidence of both elements will be achieved in a single instance. For the purposes of this definition, "harm to state finances" is synonymous with "loss to state finances" or "reduction in state finances" since the word "harm" denotes reduction or

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

suffering. The Constitutional Court's decision number 25/PUU-XIV/2016, dated 25 January 2017, reaffirmed that state financial losses, particularly those associated with combating corruption, must be accurate, specific, and calculable. The following laws and regulations govern state losses in Indonesia:

1) *"State/regional losses are shortages of money, securities, and goods, which are real and definite in amount as a result of unlawful acts, whether intentional or negligent," states Article 1 number 15 of Law Number 15 of 2006, establishing the Financial Audit Agency.*
2) *"State/Regional losses are a shortage of money, securities, and goods, which are real and definite in amount as a result of unlawful acts, whether intentional or negligent," asserts Article 1, Number 22 of Law Number 1 of 2004 about State Treasury.*
3) *According to Law Number 31 of 1999 on the Eradication of Corruption Crimes, Section 32, paragraph (1) explains: "What is meant by "there has truly been a loss to state finances" is a loss whose amount can be calculated based on the findings of the authorized agency or the appointed public accountant."*

State budget shortages can be observed in the following ways: [12]

1) *Misallocating state/regional resources or riches (including money and products) that should not be utilized.*
2) *The state/regional resource/wealth is being overspent beyond the appropriate requirements.*
3) *Deprivation of state/regional resources/wealth that are rightfully owed (includes receiving counterfeit money, fictional commodities).*
4) *The receipts from state/regional resources/wealth need to be more sufficient than the expected amount obtained, including the receipt of defective items or commodities of improper quality.*
5) *The rise of a state/regional duty that is unjustified.*
6) *The rise of a state/regional duty that exceeds its appropriate scope.*
7) *Deprivation of a state or regional entitlement that should be possessed or acknowledged by relevant rules.*
8) *The allocation of state/regional rights needs to be increased.*

The state incurred financial losses. As stated by A.Y. Suryanajaya [13], three prerequisites must be met for the prosecution or settlement procedure to be conducted: 1) State/regional losses refer to a decrease in the financial resources of a state or region, including money, securities, and state-owned property, compared to what they should be. 2) The state's financial shortfall must be actual and quantifiable, meaning that the loss has occurred and its amount can be determined with certainty. Therefore, state losses are not only an indicator or a hypothetical loss.

# CONCLUSION

The presence of distinct state assets managed by SOEs, although their management is guided by sound corporate governance principles, does not automatically imply that these converted and acknowledged as independent state assets independent legal entities subject to private law. However, the state separates these assets to be managed by SOEs to ensure professional management based on corporate principles. This is done to preserve the potential revenue that rightfully belongs to the state, thereby generating benefits for the improvement of the national economy and the enhancement of societal well-being and intelligence, which are the objectives of the Republic of Indonesia. Efforts to enhance the

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

evidence of financial losses caused by corrupt activities in State-Owned Enterprises (SOEs) can be achieved by focusing on managing and separating state assets, as outlined in State Finance Law No. 17 of 2003. Thus, there is no differentiation between the primary company (SOE) and its subsidiary as long as the subsidiary is formed using capital derived from the State Finance or SOE capital participation, and it also benefits from state facilities. This applies to all derivative company entities, such as the primary company's children, grandchildren, and great-grandchildren. Therefore, any losses incurred by state-owned enterprises (SOEs), including their subsidiaries, due to illegal activities or fraudulent behavior are still seen as losses the state bears. In combating corruption, law enforcement targets individuals who have engaged in unlawful activities related to managing state finances in state-owned enterprises (SOEs) and their subsidiaries. This approach is based on the Corruption Eradication Law, which allows for investigating and prosecuting corruption cases involving both government and non-government entities, focusing on recovering state losses. It follows theSSS flow of state funds, regardless of their location. This interpretation implies that illegal actions related to the handling of segregated state funds that involve corrupt components leading to losses fall under the purview of efforts to eliminate corrupt criminal activities, on the one hand, and execution of the law, on the other.

# REFERENCES

A. Saputra, "Reformulasi Pengelolaan Penyertaan Dan Penatausahaan Modal Negara Pada Bumn Berbentuk Perseroan Terbatas," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* , Vol. 7, P. 60, 2022.

A. Suryanajaya, In *Penyelesaian Kerugian Negara, Dalam Persfektif Hukum Administrasi Negara Publik; Teori Dan Praktek* , Jakarta, Cv Eko Jaya, 2011, Pp. 14-15.

Badan Pengawasan Keuangan Dan Pembangunan, "Https://Www.Bpkp.Go.Id/," Badan Pengawasan Keuangan Dan Pembangunan, 15 Desember 2014. [Online]. Available: Https://Www.Bpkp.Go.Id/Kepri/Berita/Read/13486/0/Sosialisasi-Kerugian-Keuangan-Negara-Untuk-Seluruh-Masyarakat-Melalui-Media-Elektronik.Bpkp. [Accessed 05 Mei 2024].

D. P. N. Simatupang, Paradoks Rasionalitas Perluasan Ruang Lingkup Keuangan Negara Dan Implikasinya Terhadap Kinerja Keuangan Pemerintah, Jakarta: Badan Penerbit Fhui, 2011, P. 11.

D. S. Sari, "Https://Www.Beritasatu.Com/," Beritasatu, 11 Mei 2023. [Online]. Available: Https://Www.Beritasatu.Com/Nasional/1043810/Pengertian-Bumn-Hingga-Sejarah-Singkatnya-Baca-Sebelum-Melamar. [Accessed 05 Mei 2024].

M. Gall, "Http://Jonaediefendi.Blogspot.Com/," Blog Mr. Joe, 07 Oktober 2012. [Online]. Available: Http://Jonaediefendi.Blogspot.Com/2012/10/Perspektif-Yuridis-Pengembalian.Html. [Accessed 05 Mei 2024].

P. Anoraga, Bumn, Swasta Dan Koperasi Tiga Pelaku Ekonomi, Semarang: Pustaka Jaya, 1994, P. 41.

*Putusan Mahkamah Konstitusi Nomor 62/Puu-Xi/2013*. Hlm. 110, 2013.

*Putusan Nomor 32 /Pid.Sus-Tpk/2020/Pn Jkt.Pst*, 2020.

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia

ISSN (Print) 2338-1051, ISSN (Online) 2777-0818

*Putusan Nomor 39 /Pid.Sus-Tpk/2023/Pn.Srg*, 2024.
*Putusan Nomor 46 /Pid.Sus-Tpk/2021/Pn Jkt.Pst*, 2021.
S. Sujanto, "Pemikiran Tentang Bumn Di Indonesia : Implementasi Dan Konsekuensinya," In *Seminar Revitalisasi Filosofi Ruang Lingkup Keuangan Negara Dan Implementasinya Pasca Putusan Mahkamah Konstitusi Nomor : 48/Puu-Xi/2013 Di Pusdiklat Anggaran Dan Perbendaharaan Pada Badan Pendidikan Dan Pelatihan Keuangan Kemenkeu Ri*, Jakarta, 2014.
W. R. Tjandra, Hukum Keuangan Negara, Jakarta: Grasindo, 2014, P. 11.

© Author(s). This work is licensed under a Creative Commons Attribution 4.0 International License .
Published by Postgraduate Program, Master of Laws, Faculty of Law, Universitas Sebelas Maret, Indonesia