

ANALYSIS OF AUDIT POLICY INVESTIGATION INTO CASES OF ALLEGED FORMULA E CORRUPTION AT THE DKI JAKARTA PROVINCIAL GOVERNMENT

Hamdani¹⁾, Fachruzzaman²⁾

*Faculty of Economics and Bussines, University of Andalas¹
Faculty of Economics and Bussines, University of Bengkulu³*

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Correspondence:

Hamdani

hamdani@eb.unand.ac.id

ABSTRACT

The case of alleged Formula E corruption in the Provincial Government of DKI Jakarta is an interesting phenomenon as an academic study. An interesting part of the handling of alleged corruption cases in the scientific field is the investigative audit between practice and theory, paying attention to government regulations as a positive theory. It is strongly suspected that when the KPK requested an investigative audit it turned out to be not in line with the regulations that govern it. The fact is that in many corruption cases involving the Governor, the KPK has not asked the BPK to carry out an investigative audit to identify suspects. The difference between practice and theory and existing provisions is the material for analysis in this study. Since KPK was born in 2003 until now, it is only at this time that an anomaly was found in the practice of auditing state finances, especially investigative audits. In this regard, the KPK submitted a request for an investigative audit to the BPK before proving that there was an unlawful act. The results of this study concluded that an investigative audit could not be carried out by the BPK RI on the alleged Formula E corruption case in terms of the existing regulations on the BPK and the KPK. BPK regulations require the KPK to expose cases to show illegal acts, but so far the KPK has not found any. The regulations at the KPK require that at the investigation stage a suspect has been named as the basis for a request to the BPK for the calculation of state financial losses, but the KPK has not been able to do so.

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INTRODUCTION

Background and Research Problems

The desire of the Governor of DKI for the 2017-2022 period to present an electric-based racing car event at the Ancol Circuit has a long tail. As the Governor of Metropolitan City who innovated to present Jakarta on the stage of the prestigious international event, it attracted controversy among criminal experts and regional financial experts. Formula E events have been held in many countries to boost the economy and tourism during and after the race car *event*. The Corruption Eradication Commission (KPK) under the pretext of following up on public complaints on allegations of corruption carries out judicial efforts in the form of investigations for the examination of these criminal allegations. Since November 2021, many parties have been summoned for questioning on the Formula E case. The executive and legislature have been invited to the Red and White House to provide information on what is known, seen, heard, and done. At the end of Anies Baswedan's tenure, the KPK asked him to provide information on the Formula E case.

Starting from the declaration of a presidential candidate by the Nasdem Party, Anies' figure emerged as a prominent figure on the current national political stage. As a consequence, many people are pro and con for Anies' presence. It is strongly suspected that oligarchs, ruling parties, and other potential presidential candidates want Anies to bounce from the arena of the presidential election competition. Anies' steep path as a presidential candidate was created from all directions, both efforts to thwart the coalition, conduct black campaign politics, and legal efforts to suspect Anies. The latter effort is felt to be more open because of the requirement that presidential candidates

do not commit reprehensible deeds. From this door, the Formula E case threatens Anies as a suspect in corruption, where in the process of registering presidential candidates to the General Elections Commission every candidate is free from reprehensible acts including holding suspect status.

The Tempo newspaper on December 23, 2022, reported that the title of the case carried out by the investigation team in front of all KPK leaders concluded that the Formula E case was not enough evidence to be raised to the investigation stage. This conclusion is the same as the investigation team's submission in the previous case on September 28, 2022. Until now, it is said that all parties, including the management of PT Jakarta Propertindo as the organizer of Formula E, have been asked for information.(Sukanto, 2022). On the occasion of the case, Firli asked to raise the case to the investigation stage without the determination of suspects. That way, the KPK can ask the CPC to conduct an investigative audit. In addition, the KPK can continue handling cases and further legal processes in the form of searches and seizures. Firli's actions like this were encouraged because of the desire to immediately raise the case to the investigation stage because more than a year later the investigation process had not found two sufficient pieces of evidence as a basis for determining Anies as a suspect. Such a step deviates from the KPK's norm of raising the status of handling cases to the investigation stage after having two sufficient pieces of evidence.

Yuris Reza, a researcher from UGM's Center for Anti-Corruption Studies, believes that the KPK in investigating a case must be based on two sufficient evidence. The KPK cannot raise or force the status to the investigation stage if it does not have two sufficient pieces of evidence. For this reason, it is recommended that the KPK works professionally, does not enter the political arena, and does not criminalize someone in investigating a case. The KPK Supervisory Board must intervene to take action if the KPK leadership is indicated to have violated the code of ethics in investigating a case of alleged corruption.(Subekti, 2022) The controversy over the handling of the alleged Formula E corruption case continues. KPK leaders Firli Bahuri, Johanis Tanak, and Alexander Marwata and KPK Enforcement Deputy Karyoto met BPK member V Nyoman Adi Suryadnyana to expose the results of the investigation or conduct a case of alleged Formula E corruption on January 10, 2023. The KPK commissioner wanted the BPK leadership to know in detail the Formula E problem. The same request has been made by KPK Deputy Chairman Alexander Marwata to BPK in September 2022.(Sukanto, 2023)

From the description above, there are two ways to request an investigative audit by the KPK to the Audit Board (BPK) on cases of alleged corruption in the management of Formula E. First, an investigative audit at the request of the KPK to the BPK to determine the indication of state losses provided that the KPK conveys indications of unlawful acts in the investigation process of the Formula E case. Second, an investigative audit at the request of the KPK to the BPK for the calculation of state losses provided that the KPK has determined that the suspect and/or criminal case of corruption has been upgraded to the status at the investigation stage. Related to the KPK's lobbying to the BPK to carry out an investigative audit of cases of suspected Formula E corruption whether it is in accordance with the provisions or is a violation of standard operating procedures both at the KPK and at the BPK. If this is implemented, what are the consequences faced by the KPK and BPK. Since the KPK was born in 2003 until now, only now has an anomaly been found in the practice of state financial audits, especially investigative audits. This study tries to answer the research question with the title "Audit Policy Analysis of Investigation into Cases of Alleged Formula E Corruption in the DKI Jakarta Provincial Government".

Research Objectives and Urgency

- a. To conduct an analysis of the rules, the KPK conducted an investigative audit request to the BPK on the DKI Jakarta Provincial Government Formula E Corruption Allegation Case.

- b. To conduct an analysis of the rules and procedures, BPK received an investigative audit request from the KPK on the DKI Jakarta Provincial Government's Formula E Corruption Allegation Case.
- c. To ensure that there are no violations of procedures in handling cases of criminal acts of corruption by law enforcement institutions, in particular.

Research Benefits

- a. For the public, this research is useful to provide education on controversies related to how the KPK handles the DKI Jakarta Provincial Government's Formula E Alleged Corruption Case.
- b. For the KPK, as input pro justitia work that is free from the impression of politicization in handling cases of alleged corruption.
- c. For BPK, as input to free, independent, and competent investigative audit work.

Research Scope

This research is limited to the policies and procedures for investigative audits of the DKI Jakarta Provincial Government's Formula E Corruption Allegations based on regulations and practices that have developed so far.

LITERATURE REVIEW

Understanding *Fraud* and Corruption

Fraud is defined as the practice of cheating, irregularity and irregularities. According to the Black Law Dictionary (8th Ed) *fraud* is defined as "An act deliberately to deceive or lie, a deception or dishonest ways to take or lose money, property, legitimate rights belonging to others either because of an act or the fatal effect of the act itself". While Wikipedia defines *fraud* "Fraud is fraud made for personal gain or to harm others. In criminal law, fraud is a crime or act that intentionally deceives others with the intention to harm them, usually to have something/property or services or benefits in an unjust/fraudulent way. Cheating can be achieved through counterfeiting of goods or objects. In criminal law it is called "theft by fraud", "theft by deceit", "theft by embezzlement and fraud" or other similar things".(Priantara, 2013)

According to the Big Dictionary of Indonesian, 1991 (KBBI) corruption means rotten; false; or bribes. In the Law Dictionary, corruption is bad; broken; likes to accept bribes; misappropriating money/goods belonging to companies or the state; receiving money by using one's position for personal gain or misappropriation or embezzlement of state or corporate money as a place for one's employment for personal or others' gain. *The Lexicon Webster Dictionary*, 1978 defines corruption as depravity; dishonesty; immorality; deviation from chastity. *Transparency International* defines corruption as the behavior of public officials, whether politicians, politicians or public servants, who unreasonably and illegally enrich themselves or enrich those close to them, by abusing the public power entrusted to them.(Priantara, 2013)

State Financial Losses and Calculation of State Financial Losses

Law on State Treasury Law Number 1 of 2004 provides a definition of "loss" in the context of state/regional losses. Article 1 paragraph (22) of this law reads "State/Regional losses are shortages of money, securities, and goods, which are real and definite in amount as a result of unlawful acts either intentionally or negligently" (Setneg, 2004). State/Regional losses in article 1 paragraph (22) must be "real and definite amount". The explanation of Article 1 (including paragraph 22) simply says: "self-explanatory". Practitioners interpret "real and certain" as something that is actually issued or happens. Within the scope of the State Treasury Law, this interpretation is correct. For example, in case of lack of money, securities and goods. Another criterion is "real and definite deficiencies"

and it is easy for the inspected and the *examiner (auditee-auditor)* to reach agreement. The size is objective or there is almost no element of subjective interpretation.

In the first stage, the investigator (hereinafter the investigator and the public prosecutor) formulates the unlawful act. There is a relationship between unlawful acts and losses caused and evidence of causality. In this stage the main question is what are the legal facts? With that legal fact, law enforcement (investigators; investigators and public prosecutors) formulates the criminal act of corruption, determines the presence or absence of state financial losses, and the form of state financial losses (Tuanakotta, 2014). In relation to the understanding of real and definite state financial losses, in the process of investigating prosecutions and charges of criminal acts of corruption it is inevitable to determine the amount with certainty. As evidence at the trial required two stages of the process of financial losses of the State. The first stage, to determine whether there is an unlawful act that results in state financial losses or formulate a criminal act of corruption is the territory of legal experts. While the second stage, to ascertain the presence or absence of state financial losses and calculate the amount of these losses or determine the amount of state losses in relation to the calculation of state financial losses is the territory of accountants / auditors / forensic accountants.

The first stage and the second stage are closely connected. In the case of corruption cases handled by the police and prosecutors after legal construction finds unlawful acts, they ask the BPK or BPKP inspection agency to calculate state financial losses. Because it is realized that law enforcement officials, police and prosecutors do not necessarily have investigators who have competence as auditors. This is the advantage of the KPK which has accountants / auditors / forensic accountants (*in house*) and can always interact intensively with investigators, investigators, or prosecutors generally. The first phase and the second phase continue until law enforcement and forensic accountants are satisfied, in the sense of being ready for prosecution in court. Based on the evidence and evidence that may be gathered up to that point, they may decide: (a) to collect additional evidence and evidence; (b) seek recovery of state financial losses through civil or administrative law channels (Article 32 of Law Number 31 of 1999 *jo.* Law Number 20 of 2001); or (c) stop the investigation (in the case of the KPK) or investigation/investigation (in the case of the Police and the Prosecutor's Office). (Tuanakotta, 2014)

State Financial Loss Investigation Audit

Definition of Forensic Audit In this case, forensic audit includes various investigative activities that are often carried out to prosecute a party for fraud, embezzlement, or other finance-related crimes. During the audit process, auditors are called upon to be expert witnesses in the proceedings. The definition of forensic audit includes various investigative activities that are often carried out to prosecute a party for fraud, embezzlement, or other finance-related crimes. Forensic audit is a combined audit of expertise that includes accounting, auditing and legal / legislative expertise with the hope that the results of the audit will be used to support legal processes in court and other legal needs. (Kuntadi, 2022). According to Law Number 15 of 2004 concerning Examination of State Financial Management and Responsibility, state finance includes financial audits, performance audits and audits with specific objectives. Purpose-specific checks are checks outside of financial checks and performance checks. The report on the results of the examination with a specific purpose contains conclusions. This examination can be an examination, *review*, or an agreed procedure. This purposeful examination includes, among others, an examination of other matters related to finance, an investigative examination and an examination of the internal control system (Setneg, 2004).

Furthermore, Law Number 15 of 2006 concerning the Audit Board states that if a criminal element is found in the examination, the BPK reports it to the competent agency in accordance with the provisions of laws and regulations no later than 1 (one) month since the criminal element is known. This provision confirms the authority of the BPK to carry out investigative audits on its own initiation. Furthermore, this provision also regulates the position of the BPK as an expert

information provider in the judicial process regarding state/regional losses (Setneg, 2006). Investigative Audit is the process of searching, finding, and collecting evidence systematically aimed at revealing whether or not an act occurred and the perpetrators for further legal action. The benefits of investigative audits include identifying fraud and errors, recovering losses whether intentional or unintentional, improving control, and improving the reliability of audited financial statements that represent a company's actual financial position and performance. Article 13 of this Law states that the authorities can carry out investigative examinations to reveal indications of state/regional losses and/or criminal elements. The definition of "may" in this article means that the CPC is not obliged to carry out an investigative audit but depends on the needs (Tuanakotta, 2015).

In relation to the calculation of state financial losses, the definition used is investigative audit. There are three commissions that trigger investigative audits, namely the results of the development of financial audits or compliance audits and requests from the KPK and other law enforcement officials. The investigative audit of the results of financial audit development is an initiative of BPK as an attributive authority granted by law. Investigative audits upon request are carried out independently and objectively. In the sense of the word, the receiving authority rests with the CPC regardless of the influence of other institutions. BPK Regulation Number 1 of 2017 concerning Regional Financial Inspection Standards states that the Examiner must disclose non-compliance with the provisions of laws and regulations that indicate fraud, impropriety, and/or losses of the state/region, as well as non-compliance that has a direct and material effect on the subject matter/information of the subject matter examined in accordance with the provisions. PDTT in the form of investigative examination is only carried out when there is adequate predication. Predication can come from examination findings other than PDTT in the form of investigative examinations, information from internal and external parties of the CPC. The findings or information must be tested for feasibility before they can be accepted as predications (CPC, 2017).

The above is the basis for conducting an investigative audit at the initiative of BPK because the auditor sees indications of fraud (predication) during the implementation of financial audits of LKPP, LKKL, or LKPD. The results of the examination are not submitted to the auditee but directly submitted to the KPK or other law enforcement officials. Furthermore, BPK RI Regulation Number 1 of 2020 concerning Investigative Examinations, Calculation of State/Regional Losses, and Provision of Expert Information states that investigative examinations can be carried out by BPK based on requests from Representative Institutions and/or Authorized Agencies; development of Examination Results; or the results of analysis and/or evaluation of information received by BPK regarding irregularities in financial management and financial responsibility of the state. In relation to investigative audits based on the request of law enforcement officials must comply with the provisions of this CPC regulation. The calculation of State/Regional Losses is carried out by the BPK in the process of investigating a criminal act by the Competent Authority. Thus, a new investigative audit can be carried out at the investigation stage.

RESEARCH METHODS

Research Design

This study in terms of analysis method and design is a type of qualitative research, and when viewed from the level of explanation is a type of descriptive research. Descriptive qualitative methods are considered appropriate, because research must be carried out carefully, in-depth and thoroughly to obtain an overview of generally accepted principles or patterns in relation to the symptoms present in the object of research. This type of descriptive qualitative research is also chosen so that the results achieved from this research can be a good, clear, and balanced recommendation for decision makers in organizations related to the research topic. Qualitative research examines participants' perspectives with interactive and flexible strategies. Qualitative research is aimed at understanding social phenomena from the perspective of participants. Thus the meaning or understanding of qualitative research is research used to examine the conditions of

natural objects where researchers are key instruments. In this qualitative research, the determination of data sources (resource persons / informants / participants) is carried out *purposively*, which is selected with certain considerations and objectives. The results of qualitative method research apply only to the case of the social situation, which can be transferred or applied to the social situation (elsewhere), if the social situation has similarities or similarities with the social situation under study. (Sugiyono, 2015)

The type of research used in this study is qualitative type. According to Sugiyono, qualitative research is to understand and explore the main phenomena of the object under study, so as to gain a deep understanding and find something unique. The steps or processes of qualitative research are artistic, so they are not standard, and will depend on the purpose of the study. Qualitative research measures aim to construct new phenomena and find hypotheses. (2015) When viewed from the level of explanation, it is a type of exploratory research. The exploratory method is considered appropriate, because in this method approach, digging data and information about new topics or issues intended for the benefit of deepening or further research. The purpose of research is to formulate more accurate questions that will be answered in follow-up research or later research. Researchers usually use this exploratory research to gain sufficient knowledge of the research carried out for the preparation of design and implementation of more systematic follow-up studies.

Research Objectives and Data Collection Methods

The purpose of this study is to reveal the facts of the results of secondary data processing. The purpose of this study is used to reveal the performance and financial condition of a company. In this study, the facts found are related to the management of Formula E and regulations governing the business process of handling corruption cases and the implementation of investigative audits. Thus, analysis can be carried out to reveal the fact whether the business process of handling corruption cases and investigative audits is in accordance with the regulations that govern it. The data collection techniques carried out in this study are through *library research*, *observation and documentation*, interviews and *in-depth* interviews, and through additional questions (*additional question*).

The data collection techniques carried out in this study are interviews, oconservation, and documentation studies or a combination of all three called triangulation. Data analysis in qualitative research is carried out before entering the field, during the field, and after completion in the field. Aactivity in qualitative data analysis is carried out interactively and takes place continuously until it is complete, so that the data is saturated. Activities in data analysis include, data *reduction*, data *display*, and data *conclusion drawing/verification*. The data processing procedures that have been collected are as follows: (1) Collection of information related to the management of research objects, (2) Conducting data analysis. The data analysis used in this study used content analysis. Content analysis begins by *coding* relevant terms or uses of words and sentences, which appear most in communication media. After being categorized then put into the theme, (3) Perform validity data. Testing the validity of data is carried out by juxtaposing data sources with other data, namely data obtained from interviews, observations and documentation studies, (4) Drawing conclusions from research results. Conclusion making based on analysis of data that has been tested for validity (Nur Indriantoro, 2016).

Data Types and Sources

The types of data in this study are primary data and secondary data. Primary data were obtained through interviews with relevant parties regarding their perceptions of the object under study. While secondary data comes from documents and reports and regulations obtained from media, reports, and books. The data collected are in accordance with the underlying facts according to the chronology of the events of the study. The data sources used in this study are as follows:

- a. Primary data, namely data obtained by conducting direct interviews with key informants, namely officials at the Financial Management Agency and Regional Inspectorate and BPK RI.
- b. Secondary Data, namely data obtained from regional financial documents, LKPD, and LHP on LKPD related to discussion, literature, media reports and other sources related to the object of research.

Data Analysis

In this study did not use software because there was no sampling activity and hypothesis testing. Analysis is conducted to determine whether the documents or facts in the possession of the KPK meet the conditions for an investigative examination. Previously, based on the results of the BPK RI examination, whether the BPK could conduct an investigative audit on its own initiative. The steps in the data analysis carried out are as follows:

- a. Analysis of the LHP on the LKPD FY 2019 and 2020, the budgeting year for the commitment of Formula E implementation fees. From the content analysis of the two LHPs, it can be seen whether the BPK found and disclosed fraud as a basis for follow-up in the investigative audit.
- b. Analysis of KPK news in every witness summons or case title against the alleged Formula E corruption case. This analysis is to determine whether in the investigation process the KPK has found two sufficient pieces of evidence as a basis for determining suspects.
- c. Policy analysis of handling corruption cases by the KPK to determine the request for an investigative audit by the KPK to the BPK has been qualified.
- d. Policy analysis on the BPK to determine the requirements for the BPK to receive audit requests from law enforcement officials including the KPK.

RESEARCH RESULTS

Formula E Activities Management Overview

The budgeting of Formula E activities began with the DKI Governor's plan to promote Jakarta as a world metropolitan city capable of holding electric car races like other countries. This innovation aims to elevate the city of Jakarta to become the center of world attention, especially automotive enthusiasts. This is in line with efforts to develop environmentally friendly modes of transportation amid the alarming air pollution of the City of Jakarta. After holding a meeting with Formula E Operations Limited (FEO), Jakarta was declared eligible to hold Formula E. Furthermore, the Governor of DKI wrote to the Ministry of Home Affairs and the Ministry of Youth and Sports. The consultation process was carried out either through letters or meetings at the Ministry of Home Affairs where both the Ministry of Home Affairs and the Ministry of Youth and Sports did not object to the initiative of the DKI Provincial Government to hold a Formula E celebration.

In accordance with Government Regulation Number 12 of 2019 concerning Regional Financial Management, funding for the expenditure of an activity can be budgeted if the implementation of the affairs and authority of the Regional Government. For this reason, Formula E, which is a youth and sports affair, is budgeted at the Youth and Sports Office. Meanwhile, in accordance with the advice of the Minister of Home Affairs, the governor assigned PT Jakarta Propertindo as the *event organizer* of the Formula E race. The budgeting process in the DKI Revised Regional Budget in 2019 has been carried out in accordance with the provisions of regional financial regulations. The budget mechanism begins with discussions with the relevant DPRD Commissions and then discussions are carried out on the General Budget Policy (KUA) and the Priority of the Temporary Budget Ceiling (PPAS) of the 2019 APBD-P. After the agreement with KUA and PPAS APBD-P, the governor submitted the draft APBD-P for 2019. Joint agreement between the governor and the DPRD on the draft APBD-P Year 2019 was reached on time.

The next stage is the submission of the 2019 APBD-P draft to the Minister of Home Affairs for an evaluation process before the 2019 APBD-P Regional Regulation is determined. The results of the evaluation are stated in the decision of the Minister of Home Affairs as the basis for the Governor and DKI DPRD to determine the 2019 APBD-P Regional Regulation. Thus the budgeting process is in accordance with applicable regulations. Regional financial governance is a system attached to regional financial management policies and procedures including planning, budgeting, implementation, administration, supervision, and accountability to ensure compliance and conformity with existing regulations. In this regard, the budgeting process already reflects good governance. However, there are several allegations addressed to Governor Anies Baswedan, namely payments made before the 2019 APBD-P Regional Regulation is determined, payments using bank debt and implementation past the governor's term. There is even a professor of criminal experts who states that illegal acts have been found in the implementation of Formula E.

The payment for Formula E commitment *fee* expenditure made by the Youth and Sports Office of Rp 180 billion is a down payment from the total Formula E commitment fee expenditure of Rp 560 billion. Payment of the commitment *fee* was made on August 22 according to the agreement between PT Jakpro and FEO dated 22. While the remaining Rp 380 billion was carried out after the APBD was determined. Rp 180 billion was obtained from a short-term loan to Bank DKI. Regarding the implementation of the celebration that passed the term of office of the DKI Governor, the argument presented by the DKI Provincial Government was the impact of Covid-19 which was originally planned in two rounds of 2020 and 2021 but was postponed to three rounds of 2022, 2023 and 2024. This exceeded activity beyond the governor's term of office does not violate the provisions because it does not bind the budget beyond the governor's term of office. Accountability for these expenditures has been presented to the DKI LKPD in 2019 and 2020 and submitted to the BPK for audit. LKPD in those two years obtained an Unqualified Fair Opinion (WTP) which means that the auditor did not find any predication or indication of *fraud* on the fee commitment expenditure . Furthermore, the LHP on the LKPD became the basis for the preparation of the Regional Regulation on Accountability for the Implementation of the Regional Budget which was discussed and approved by the DPRD.

Analysis of KPK Investigation into Alleged Formula E Corruption Case

Starting from following up on public complaints by the Executive Director of People's Democratic Studies, the KPK has conducted an investigation since October 2021. In the investigation process that presented criminal expert witnesses in the case title, criminal expert opinions emerged to the mass media stating that there had been unlawful acts in the management of Formula E. The KPK has also called many witnesses, including the Governor of DKI for the 2017-2022 period, to be questioned about the alleged criminal incident. However, witness statements have not convinced the KPK to raise the status of handling the case to the investigation stage and establish Anies Baswedan as a suspect. Why is it difficult for the KPK to find two sufficient pieces of evidence if this case is suspected to have the smell of corruption. This happened because KPK officials and investigators disagreed with most commissioners about illegal acts. Three KPK commissioners argued that the status of the case could be upgraded to the stage of investigating the presence or absence of suspects. However, this desire was not supported by KPK officials and investigators.

Since the enactment of Law Number 19 of 2019 concerning the Second Amendment of Law Number 30 of 2002 concerning the Corruption Eradication Commission, KPK commissioners no longer have the authority as prosecutors and investigators. Thus, the decision to assign suspects or raise the status of handling cases to the investigation stage rests entirely with investigators. This is the reason why the KPK leadership returned one deputy, two directors, and one KPK officer because it did not support the KPK commissioner's desire to upgrade the status of handling Formula E cases to the investigation stage. The KPK leadership offered two options for the process of handling

Formula E cases, namely investigation by determining suspects and investigation without suspects. The second option is taken if in the investigation process two sufficient pieces of evidence are not obtained. The KPK leadership chose the second option because of disagreements with investigators and two KPK commissioners to choose the first option. When referring to Article 47 of Law Number 19 of 2019, the investigation process without suspects is not in accordance with the provisions of the article. Article 47 Paragraph 4 of the law states that copies of search and seizure minutes are delivered to suspects or their families. Even though the second option has not yet been determined the suspect. Meanwhile, the minutes of search and seizure must be signed by the owner or who controls the goods, which in this context is certainly a suspect as referred to in Article 47 Paragraph 4 of the law. Saut Situmorang, former Vice Chairman for the 2015-2019 period, stated that he had held 15 Formula E cases until the end of March 2023. According to him, this case is the most case of the implementation of case titles. This shows a sharp difference of opinion within the KPK regarding the presence or absence of unlawful acts. Until now, KPK investigators have not been able to show two sufficient pieces of evidence.(Tobing, 2023)

Audit Policy Analysis of Investigation into Alleged Formula E Corruption Cases

The investigation process into alleged Formula E corruption cases has been running for more than a year, but the KPK has not been able to find two pieces of evidence that are sufficient as a basis for raising the status of handling cases to the investigation stage. The Chairman of the KPK tried to complete the handling of the case by asking for the opinion of criminal experts and requesting an investigative audit to the BPK RI. The effort was intended to obtain two pieces of evidence in accordance with the provisions of Law Number 8 of 1981 concerning the Criminal Procedure Code, namely witness statements from criminal experts and a letter in the form of LHP BPK. For the testimony of criminal experts, the KPK asked for the opinion of Padjajaran University criminal law expert, Romli Atmasasmita, who stated that there were elements of evil intent (*mens rea*) and evil deeds (*actus reus*) in the implementation of Formula E. Romli argued that from the beginning Anies Baswedan already knew there was no budget post in the 2019 budget but still forced the implementation of Formula E. According to Romli, the power of attorney was given to Kadispora to make loans to Bank DKI without DPRD approval is not in accordance with the provisions. Furthermore, the form of agreement with a business-to-G approach violates the agreement of the Minister of Home Affairs which requires business to business. Romli's opinion was used by the KPK as evidence in the form of a letter.

To strengthen the evidence of criminal cases, the KPK asked BPK RI to conduct an investigative audit. This request was made by the KPK through coordination between KPK Deputy Chairman Alexander Marwata on September 30, 2022. The same request was also made by the KPK through a case in the BPK on January 10, 2023. Until now, BPK has not followed up on the KPK's request in the form of an investigative audit. In the practice of handling corruption cases in the KPK, there are almost no requests for investigative audits to the BPK or BPKP for the determination of suspects. In reality what happened was the request for an investigative audit for the calculation of state losses. The argument is that someone is designated as a suspect in a corruption case not because of state losses but because of unlawful acts or enriching themselves or others. Thus, the role of investigative audits in determining suspects is relatively unnecessary. The analysis in this study is whether the KPK's request for an investigative audit is in accordance with the provisions applicable to the BPK. There are two provisions governing investigative audits, namely BPK Regulation Number 1 of 2017 concerning State Financial Inspection Standards (SPKN) and BPK Regulation Number 1 of 2020 concerning Investigative Examination, Calculation of State/Regional Losses, and Provision of Expert Testimony. Content analysis of both provisions can determine whether the KPK in the Formula E case can submit an investigative audit request to the CPC.(CPC, 2020)

According to BPK Regulation Number 1 of 2020, there are two requests for investigative audits that can be carried out by the KPK, namely requests for investigative audits to determine indications

of state losses and investigative audits for calculating state losses. The first request can be made at the investigation stage, while the second request is made after the investigation process and has been determined the suspect. According to the Lead Auditor, the mechanism for requesting investigative audits at the investigation stage to determine indications of state losses is carried out on the condition that the KPK shows that there has been a predication or indication of unlawful acts. The pre-planning stage begins with the receipt of preliminary information through the exposure of the case by the investigator to the CPC. Furthermore, the CPC will decide to accept the request after reviewing the initial information to assess whether there is a predication in the case. In this Formula E case, the KPK was not only able to show predication to the BPK in the case exposé but investigators stated that they had not found two sufficient pieces of evidence. This means that the KPK cannot show predication or indications of unlawful acts, so the request for an investigative audit in this stage of the investigation is not accepted by the BPK because it is not in accordance with regulations in the BPK.

Furthermore, for requests for investigative audits for the calculation of state losses, the CPC can only be carried out if the Formula E case has been upgraded to the investigation stage and the suspect has been determined. Until the time of the case at the KPK, the handling of the Formula E case is still at the investigation stage. Thus, the CPC cannot accept the request for an audit of the investigation. What if the BPK ignores the provisions of BPK Regulation Number 1 of 2020? The answer is that the implementation of the investigative audit is classified as abuse of power. In accordance with the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2019 concerning Guidelines for Dispute Resolution of Government Actions and the Authority to Prosecute Unlawful Acts by Government Bodies and / or Officials (*Onrechtmatige Overheidsdaad*), this BPK LHP as an administrative product of government officials can be declared unlawful or the decision is declared void in law.

CONCLUSION

1. The investigation of the Formula E case is the most rowdy handling of cases since the establishment of the KPK because the principle of investigating cases is carried out behind closed doors and in silence. Meanwhile, the handling of this case seems dramatic and frenetic not in accordance with the principles of investigation.
2. Dozens of cases have been held, including at the KPK, but there has been no agreement between the commissioner and investigators on the status of handling cases.
3. Efforts to raise the status to the investigation stage without suspects are contrary to Law Number 19 of 2019 where the investigation stage must be followed by the determination of suspects.sugger
4. To obtain sufficient preliminary evidence, the KPK attempted to request an investigative audit from the BPK outside the norm. However, content analysis of existing regulations in the KPK limits BPK from receiving investigative audit requests from the KPK.
5. BPK Regulation Number 1 of 2020 does not provide room for BPK to receive requests for investigative audits from the KPK both at the investigation stage and at the investigation stage.
6. Looking at the handling of corruption cases of governors throughout Indonesia, as many as 20 people handled by the KPK, almost no one used BPK investigative audits to suspect the governor. This means that the determination of suspects is an enforcement work as the judicial authority of the KPK.

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