

LEGAL PROTECTION FOR COMMITMENT-MAKING OFFICIALS AS ORGANIZERS OF GOODS AND SERVICES PROCUREMENT CONTRACTS WITHIN THE INDONESIAN NATIONAL ARMY (TNI-AD)

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ABSTRACT

Government procurement of goods and services has many legal joints including civil law joints, business law joints, state administrative joints, criminal law joints. The approach to resolving disputes over government goods and services is currently resolved through a corruption approach so that it tends to harm the Commitment Making Officer (PPK). The settlement approach is not optimal because state administrative settlements have not occurred much. Moreover, in the condition of goods and services procurement within the Indonesian Army, the existence of the Military Administrative Court has not been operational in practice.

The purpose of this research is to analyze and elaborate on the issue of how the limitations of the responsibility of the Commitment Making Officer and how it is protected in the context of the correlation of APIP supervision on alleged irregularities in the procurement of government goods and services within the Indonesian National Army (TNI-AD). The research method used is normative legal research, namely literature study with a statute approach by providing prescriptions related to the legal position and legal protection of Commitment Making Officials and the Role of APIP in the Procurement of Government Goods and Services within the Army.

This research obtained two conclusions. First, the limitation of responsibility of the commitment-making official is still very broad, general, and has not been specifically determined.... The existence of APIP regulated in the Perpres also experiences subordination and reduction of authority where APIP is only supervisory, while the control and prevention functions are not yet visible, let alone the internal control process and the settlement process. Second, legal protection for commitment-making officials can be provided by changing several provisions in Presidential Regulation of the Republic of Indonesia Number 12 of 2021 which emphasizes and strengthens APIP's authority not only in supervision but also as a control and early detection function. In addition, APIP can take preventive measures as well as more effective and efficient internal resolution channels.

Keywords: *Government Procurement of Goods and Services, Commitment Maker Official, APIP, Legal Protection, Military Administrative Court.*

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PERLINDUNGAN HUKUM BAGI PEJABAT PEMBUAT KOMITMEN SEBAGAI PENYELENGGARA KONTRAK PENGADAAN BARANG DAN JASA DI LINGKUNGAN TENTARA NASIONAL INDONESIA ANGKATAN DARAT (TNI-AD)

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INTISARI

Pengadaan barang dan jasa pemerintah memiliki banyak sendi hukum diantaranya sendi hukum perdata, sendi hukum bisnis, sendi administrasi-tata usaha negara dan sendi hukum pidana. Penyelesaian sengketa pengadaan barang dan jasa pemerintah saat ini banyak yang diselesaikan melalui pendekatan tindak pidana korupsi sehingga cenderung merugikan Pejabat Pembuat Komitmen (PPK). Pendekatan penyelesaiannya belum optimal karena penyelesaian secara tata usaha negara belum banyak terjadi. Apalagi di kondisi Pengadaan barang dan jasa di lingkungan TNI AD, keberadaan Peradilan Tata Usaha Militer ternyata belum operasional dalam praktiknya. Tujuan penelitian ini adalah untuk menganalisis dan mengelaborasi permasalahan batasan pertanggungjawaban Pejabat Pembuat Komitmentserta bagaimana perlindungannya dalam konteks korelasi pengawasan APIP pada dugaan penyimpangan pengadaan barang dan jasa pemerintah di lingkungan Tentara Nasional Indonesia Angkatan Darat (TNI-AD).

Metode penelitian yang digunakan adalah penelitian hukum normatif yaitu studi kepustakaan dengan pendekatan undang- undang (*statute approach*) dengan memberikan preskripsi berkaitan dengan kedudukan hukum dan perlindungan hukum Pejabat Pembuat Komitmen dan Peran APIP dalam Pengadaan Barang dan Jasa Pemerintah di Lingkungan TNI AD.

Penelitian ini, diperoleh dua kesimpulan. **Pertama**, Batasan pertanggungjawaban pejabat pembuat komitmen masih sangat luas, general, dan belum ditentukan secara spesifik.. Keberadaan APIP yang diatur dalam Perpres tersebut juga mengalami subordinasi dan mereduksi kewenangan dimana APIP hanya pengawasan saja sedangkan fungsi kontrol dan pencegahan belum nampak apalagi proses pengendalian internal dan proses penyelesaiannya. **Kedua**, Perlindungan hukum bagi pejabat pembuat komitmen dapat diberikan dengan bentuk mengubah beberapa ketentuan dalam Peraturan Presiden Republik Indonesia Nomor 12 Tahun 2021 yang menegaskan dan menguatkan lagi wewenang APIP tidak hanya pada pengawasan melainkan juga sebagai fungsi kontrol dan deteksi dini. Selain itu APIP dapat mengambil tindakan pencegahan serta jalur penyelesaian internal yang lebih efektif dan efisien.

Kata Kunci :Pengadaan Barang dan Jasa Pemerintah, Pejabat Pembuat Komitmen, APIP, Perlindungan Hukum, Pengadilan Tata Usaha Militer.

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