

**ANALYSIS OF THE FUNCTION OF THE PROSPERITY'S
COMMISSION IN SUPERVISING THE BEHAVIOR OF
PROSPECTORS IN INDONESIA****Muhammad Fachrur Rozi¹, Eka NAM Sihombing²**¹Master of Law Student, Universitas Sumatera Utara²Lecturer at the Faculty of Law, Universitas Muhammadiyah Sumatera
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ABSTRACT

With the power possessed by the Attorney General of the Republic of Indonesia, this institution has considerable powers in the field of prosecution and in administering state power. To minimize the occurrence of the Authority of State Power that exceeds the limit, usually, every State Institution must have limits through the Internal and External Oversight Board. It becomes a problem/issue when the external oversight agency, in this case, is the KKRI, where the results of the oversight carried out by the agency are in the form of recommendations, not followed up by the Attorney General or the President. The purpose of this study is to know the Authority of the Prosecutor's Commission and the legal consequences that arise in carrying out its duties and functions. The research method used is normative juridical. The results of this study are that the Prosecutor's Commission in Supervision has the authority to provide recommendations on alleged violations of ethics or the Prosecutor's behavior, but these recommendations do not have coercive power to be carried out like the form of supervision carried out by the Ombudsman which has juridical consequences if not implemented in the form of administrative to criminal sanctions, so it is necessary to strengthen normatively by providing legal consequences if the recommendation is not implemented by the Attorney General or the President.

Keywords : Prosecutor's Commission. State Complementary Body.**Journal History**

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INTRODUCTION

The principle of *Dominus Litis has been universally* recognized and reflected in Article 2 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which states that the Prosecutor's Office is a government institution that exercises state power in the field of prosecution and other powers based on law, which are carried out independently. . In line with the principle that the Attorney General's Office is one and inseparable (*een en ondelbaar*), then there is no other government agency that can carry out the prosecution task for and on behalf of the State.¹

With the power possessed by the Attorney General of the Republic of Indonesia, this institution has considerable powers in the field of prosecution and in administering state power. In order to minimize the occurrence of the Authority of State Power that exceeds the limit, usually every State Institution must have limits through the Internal and External Oversight Board.

Supervision can be interpreted as a process to ensure that organizational and management goals are achieved. This relates to ways of making activities according to plan with the instructions that have been given and with the principles that have been outlined. The supervision described by Robert J. M Ockler below has explained the essential elements of the supervision process, namely a systematic effort to set implementation standards and planning objectives, design information systems, provide feedback, compare real activities with predetermined standards.²

Supervision is a form of mindset and pattern of action to provide understanding and awareness to a person or persons who are given a task to be carried out using various available resources properly and correctly, so that there are no mistakes and deviations that can actually create losses by the institution or the organization concerned.³

Jimly Asshidiqie stated that the laws that have been enacted and promulgated must have gone through a very long process until they were finally passed into public property which are open, binding to the public. If a law that has been prepared, discussed and debated in such a way is finally enacted and promulgated accordingly.⁴

¹ National Law Commission and Indonesian Judicial Monitoring Society, *Attorney Renewal: Formation of Minimum Prosecutor Profession Standards*, (KHN and MaPPI, Jakarta: 2004), p. 3

² Handoko Hani, *Manajemen Personalia dan Sumber Daya Manusia*. (Jakarta: PT Rafika Aditam, 1999) P.360

³ Prosperous, *Efektivitas Kebijakan Pengawasan*. (Bandung: PT. Refika Aditama, 2011) P.176

⁴ Jimly Asshidiqie in Eka NAM Sihombing, Dani Sintara, Cynthia Hadita, "Limitations Of Revision The Legislations In The Process Of Formulating The Legislations In Indonesia", *Nomoi Law Review*, 3, No. November (2022): 116–124.

In the concept of institutional oversight within the Attorney General's Office of the Republic of Indonesia, the Attorney General's Office of the Republic of Indonesia has a Supervisory Agency such as SATGAS 53 which is a manifestation of PP Number 53 of 2010 concerning Discipline of Civil Servants to create ASN within the Attorney General's Office of the Republic of Indonesia guided by ethical behavior in accordance with institutional doctrine where SATGAS 53 stood under the Junior Attorney General in the field of Supervision and then the Supervisory Board of the Republic of Indonesia Prosecutors' Commission which was shortened to KKRI. The KKRI (Prosecutors' Commission of the Republic of Indonesia) is a non-structural institution tasked with supervising, monitoring and evaluating the performance and behavior of prosecutors and/or prosecutors' employees in carrying out their duties and powers as stipulated in Presidential Decree No. 18 of 2011 concerning the Prosecutor's Commission of the Republic of Indonesia and other laws and regulations or codes of ethics both within and outside of official duties. The Prosecutor's Commission is a non-structural institution which is independent in carrying out its duties and authorities. As for State Institutions such as the Prosecutor's Commission, what is meant is institutions that have an auxiliary function, not the main function. These institutions are called *Auxiliary State's institutions*, or *Auxiliary State's Organs*, which when translated into Indonesian means supporting State institutions or supporting State organs. Experts in Indonesian constitutional law do not yet have the same equivalent word to refer to this institution, there are those who call auxiliary state institutions, supporting state institutions, serving state institutions, independent state institutions and independent state institutions. The establishment of this institution is due to the fact that there are goals to be achieved in a country which cannot be achieved only with the main institution (*Main State's Organ*). Thus, auxiliary institutions (*Auxiliary State's Organs*) were formed, which have a serving function.

So that in this article we will discuss the position of the Prosecutor's Commission in the constitutional system in Indonesia, and the juridical consequences of not implementing the KKRI's recommendations.

METHOD

This type of research is normative juridical research with the nature of the research used is prescriptive analysis.⁵ In this study using a statutory research approach (*statue approach*).

The data source used is secondary data with primary legal materials, namely Law no. 16 of 2004 concerning the Attorney General of the Republic of Indonesia, Presidential Decree No. 18 of 2011 concerning the Prosecutor's Commission, and others. Secondary legal materials are books and scientific writings such as journals,

⁵ Eka NAM Sihombing, Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).

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theses and theses. Tertiary legal materials are like the Big Indonesian Dictionary. Data collection techniques through document studies with library research (*library research*), and after the data has been collected, qualitative analysis is used.

DISCUSSION

The position of the Prosecutor's Commission of the Republic of Indonesia in the Indonesian State Administration System

In 1999-2002, the Indonesian nation carried out formal Constitutional Reform for the first time. The constitutional reform was carried out with the aim of rearranging the power distribution of the State Organs. The amendment to the Constitution brought drastic changes to the constitutional system, especially the state institutional system.⁶The amendments to the 1945 Constitution aim to build a constitutional system and a democratic government system. The constitutional system and democratic government are built on the principle of *checks and balances* . The distribution of power needs to be rearranged because the 1945 Constitution gives too much power to the President. The president's power is too great to give birth to an authoritarian government regime.⁷

It is hoped that the rearrangement of the distribution of powers which includes Legislative, Executive and Judiciary powers will build a mechanism of *checks and balances* among the organs of the State. Within the realm of executive power, the President's power as head of government and head of state is emphasized in the framework of *checks and balances* with the DPR. Within the Legislative power environment , power is distributed to the MPR, DPR and DPD with different scopes of authority. The redistribution of legislative powers aims to establish a mechanism of *checks and balances* among the organs of legislative power.

The Constitutional Court has the authority to adjudicate at the first and last instance which is final, among others, to test laws against the constitution. The final decision of the Constitutional Court, as referred to in Article 24C of the 1945 Constitution, does not open the opportunity for appeal, cassation or other legal remedies.⁸

Judicial powers are distributed to the Supreme Court (MA) and the Constitutional Court (MK). In order to supervise and balance each other, a new state organ was also formed, namely the Judicial Commission. The Judicial Commission functions as a supervisory body over the behavior of judges. The

⁶ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta, Constitutional Court in collaboration with the Center for Constitutional Law Studies, Faculty of Law, Universitas Indonesia. 2003), p. 47

⁷ Moh. Mahfud MD, *Constitution and Law in Controversial Issues* (Jakarta, Rajawali Press, 2012), p. 139.

⁸ Laica Marzuki in Eka N.A.M. Sihombing and Cynthia Hadita, "Bentuk Ideal Tindak Lanjut Atas Putusan Mahkamah Konstitusi Dalam Pengujian Undang-Undang," *Japhtn-Han* 1, no. 1 (2022): 35–46.

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formation of the Judicial Commission is related to the intention to build a mechanism of *checks and balances* within the judicial power environment.

Efforts to build a mechanism of *checks and balances* in the constitutional structure and democratic Indonesian government system are implemented in a very broad scope. The mechanism of *checks and balances* is applied in the context of the relations of all organs of the State, both the main State organs and supporting State organs (*Auxiliary State organs*). The formation of supporting state organs is a new trend in state life and the practice of administering the state in Indonesia after the amendments to the 1945 Constitution.

Supporting state organs are state organs that exercise state power which are not necessarily included in the category of one of the branches of power according to the classic *Trias Politica* Montesquieu doctrine. The formation of supporting State organs develops in line with the development of increasingly broad and specific government tasks so that an affair cannot necessarily be categorized as the task and function of a State organ that administers Legislative, Executive or Judiciary powers. The duties of supporting state organs are specific, although theoretically they can be categorized as complementary to one of the classic branches of state power, such as the powers of the Judicial Commission, which are complementary to the judicial powers held by the judiciary. In outline, from a functional point of view, all state administration organs formed after the amendments to the 1945 Constitution can be divided into 2 (two) categories.⁹

First, the state administration organs are in the category of main state organs (main organs). The main State organ (*main State organ*) consists of

1. MPR (People's Consultative Assembly)
2. DPR.
3. DPD,
4. President,
5. Supreme Court,
6. Constitutional Court and
7. Audit Board of the Republic of Indonesia.¹⁰

Second, the state administration organs are in the category of auxiliary state organs (*Auxiliary State organs*), which Jimly Asshiddiqie calls second-tier state organs. Supporting State organs obtain Authority from the 1945 Constitution or laws. Second-tier State organs include:

1. Minister of State, Indonesian National Armed Forces,
2. Indonesian National Police,
3. Judicial Commission,

⁹ Jimly Asshiddiqie, *Konstitusi dan Hukum Dalam Kontroversi Isu* (Jakarta, Sinar Graphic, 2015), p. 104.

¹⁰Ibid

4. General Election Commissions
5. Central Bank.

The position of the second-tier state organs is parallel to the state organs established under laws such as the National Commission on Human Rights, the KPK, the Indonesian Broadcasting Commission, the Business Competition Supervisory Commission and others. In addition to the state organs mentioned above, there are supporting state organs whose sources of authority originate from statutory regulations under the 1945 Constitution and laws such as the National Ombudsman Commission and the National Law Commission (which have been dissolved). Supporting State organs are formed based on a Presidential Regulation or Presidential Decree. Another supporting state organ is the Prosecutor's Commission which was also formed based on a Presidential Decree. The formation of the Prosecutor's Commission is still related to efforts to build a mechanism of *checks and balances* among the organs of the State within the realm of Executive power.

The formation of the Prosecutor's Commission as the Attorney's oversight organ is inseparable from the condition of law enforcement that developed after the fall of the New Order authoritarian regime. All elements of society demand openness and democratic life in all aspects of state administration. The demand for the presence of a supervisory agency for the Attorney General's Office implies that the performance of the Attorney General's Office is still far from the expectations of society. The establishment of the Prosecutor's Commission was a response to the socio-political conditions in 2004-2005, especially with regard to the performance of the Attorney General's Office of the Republic of Indonesia. This socio-political condition developed long before 2004-2005 but received attention and response at the time the Attorney General's Law was formed.

In accordance with the socio-political conditions before and during the deliberations of the Prosecutor's Law, the public wanted the establishment of a Commission as an urgent need. The reason is the pessimism and distrust of the public towards the ability of the Attorney General's internal supervisors to improve their quality and performance.¹¹ In general, the quality of services in the judiciary provided by law enforcers to the public and weak internal oversight carried out by conventional institutions make law enforcement one of the sectors considered corrupt in Indonesia.¹² One of the contributing factors is the performance of the Attorney General's internal oversight agency which is weak and fails to carry out its duties. The establishment of an Independent Commission whose function is to supervise the performance of the Attorney General is inseparable from the

¹¹ Choky R. Ramadhan, Position, *Tugas dan Kewenangan Komisi Kejaksaan* (Media Hukum dan Keadilan teropong, Volume 1 November 2013), p. 4

¹² Nur Syarifah, *Meninjau Efektivitas Kewenangan Komisi Kejaksaan* (Media Hukum dan Keadilan teropong, Volume 1 November 2013), p. 17.

intention to present a check and balance mechanism in the law enforcement system at the level of second-tier state organs within *the* scope government power.

So that the first formulation of the problem has been answered in this study that the position of the KKRI (Prosecutor's Office of the Republic of Indonesia) in the Indonesian Constitutional system is as a Supporting State Organ under a Presidential Regulation whose job is to assist the President in supervising the enforcement of ethical values in the Attorney General's Office. In looking at the state organs in the constitutional system, it is not only the executive which consists of the government, the Supreme Audit Agency (BPK), the legislature which consists of: the People's Representative Council, the People's Consultative Assembly (MPR), the Regional Representative Council (DPD), the judiciary. which consists of: the Supreme Court, only the Constitutional Court, but there are supporting organs of the State Institutions mentioned above as external controls.

Juridical Consequences for Not Implementing the Recommendations of the Prosecutor's Commission of the Republic of Indonesia

Through the oversight process carried out by the Prosecutor's Commission, the Prosecutor's Commission follows up by issuing a recommendation for the Attorney General, who can then follow up on the recommendations that have been given by delegating them to the Deputy Attorney General for Oversight as the internal supervisor at the Attorney's Office. Unfortunately, the recommendations issued by the Prosecutor's Commission are not legally binding and there is no obligation for the Prosecutor's Office to implement these recommendations.¹³ An example can be seen in the case of Prosecutor Pinangki. In this case, the Prosecutor's Office did not implement the recommendations given by the Prosecutor's Commission. This is because the recommendations provided by the Prosecutor's Commission do not have specific provisions regarding sanctions if the recommendations are not implemented, which allows the Attorney to weigh arbitrarily and not follow or implement the recommendations.

In addition, the authority of the Prosecutor's Commission to examine prosecutors or employees of the Prosecutor's Office who commit ethical violations also requires cooperation from the Prosecutor's Office, because before the examination is carried out, the Prosecutor's Commission must ask permission from the Attorney General. In case examples such as the case of Attorney Pinangki, the Attorney General refused to grant the permit, and Prosecutor's Commission was unable to take any action due to the limited authority obtained from Presidential Decree No. 8 of 2011 concerning the Prosecutor's Commission.

¹³ Syafiq, M & Ichsan Muhajir. (2019). Model Pengawasan Yang Efektif Terhadap Kinerja Kejaksaan Dalam Proses Penegakan Hukum Tindak Pidana Korupsi Di Indonesia. Jurnal Spektrum Hukum. [2]. p. 21

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Based on these obligations and authorities, the Prosecutor's Commission can issue a Recommendation to be sent to the Internal Supervisory of the Prosecutor's Office for follow-up. If an ethical violation has occurred by the Prosecutor or Attorney functionary, Prosecutor's Commission has the competence to provide Recommendations as well as summon and request information from the Prosecutor or Prosecutor's Office staff concerned. The following is a recapitulation of the number of complaints by area of the High Court in 2020:

**Rekapitulasi Jumlah Laporan Pengaduan
Tahun 2020 Berdasarkan Wilayah Kejaksaan Tinggi**

NO.	WILAYAH	JUMLAH
1	Aceh	12
2	Bali	8
3	Banten	28
4	Bangka Belitung	2
5	Bengkulu	9
6	DKI Jakarta	111
7	Di Yogyakarta	19
8	Gorontalo	5
9	Jambi	17
10	Jawa Barat	91
11	Jawa Tengah	53
12	Jawa Timur	130
13	Kejaksaan Agung	50
14	Kalimantan Barat	11
15	Kalimantan Tengah	4
16	Kalimantan Selatan	18
17	Kalimantan Timur	25
18	Kepulauan Riau	6
19	Lampung	17
20	Maluku	13
21	Maluku Utara	3
22	Nusa Tenggara Barat	5
23	Nusa Tenggara Timur	24
24	Papua**	10
25	Riau	26
26	Sumatera Utara	142
27	Sumatera Barat	38
28	Sumatera Selatan	65

An example of a violation of the code of ethics can be seen in the case of a luncheon related to the removal of Djoko Tjandra's *Red Notice* between Inspector General (Pol) Napoleon Bonaparte and Brigadier General (Pol) Prasetijo Utomo who is strongly suspected of being the perpetrator in the case along with the Head of the law enforcement agency, the Jakarta District Attorney South, namely Anang Supriatna. In essence, there is no problem with hosting a luncheon, but it becomes awkward and unethical when it is the Chief Prosecutor.¹⁴

Still in the same series of events, there has been an alleged case of an ethical violation as well as a criminal act committed by the Head of Monitoring and Evaluation II Subdivision at the Deputy Attorney General's Planning Bureau for Development, namely Pinangki. Prosecutor Pinangki is thought to be related to or played a role in the case by helping the suspect Djoko Tjandra escape from legal bondage by asking the Supreme Court to issue a fatwa so that Djoko Tjandra's

¹⁴ Efendi, Sultan Fadhillah, *Penguatan Rekomendasi Komisi Kejaksaan dalam Pengawasan Pelanggaran Etik Jaksa*, Jurnal Legislatif, Vol.4 No. June 2, 2021.

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execution was cancelled. The Prosecutor's Commission for this case sent a recommendation to the Prosecutor's Office so that the Attorney Pinangki case was transferred to the Corruption Eradication Commission (KPK) and requested permission from the Attorney General to be able to conduct an examination of Attorney Pinangki.

However, this recommendation was ignored by the Attorney General's Office, as was the attitude of the Prosecutor's Office which did not provide Prosecutor Pinangki's Investigation Report (LHP) and tended to think that the Prosecutor's Commission was obstructing the course of the investigation. The Prosecutor's Commission then decided to provide a recommendation to the President regarding this case, because they were worried that the Prosecutor's Office would appear to be protecting Prosecutor Pinangki. It was not carried out by the Attorney General, who thought that the Prosecutor's office had conducted sufficient investigations and found no ethical violations.

From this case example, it can be seen how effective the Prosecutor's Commission Recommendations are. Recommendations issued by the Prosecutor's Commission do not have binding force or administrative sanctions that can put pressure or coercion on the Prosecutor's Office to implement the Recommendation. Supposedly, the Recommendation has coercive power or at least there are elements that encourage the recipient of the Recommendation to carry out the contents of the Recommendation. Provisions regarding the Prosecutor's Commission Recommendation can be seen in Article 7 of Presidential Decree No. 18 of 2011, which reads as follows:

1. "The results of the examination as referred to in article 5 are submitted in the form of a recommendation to the Attorney General for follow-up."
2. "In the event that the Recommendation referred to in paragraph (1) is not followed up or the implementation is not in accordance with the Recommendation, the Prosecutor's Commission reports it to the President."

The article indicates that the mechanism that can be taken if the recommendations from Prosecutor's Commission are not implemented is to report them to the President. This of course requires a long process and takes a long time, and there is no further explanation whether with this reporting the Prosecutor's Commission Recommendations become mandatory for the Prosecutor's Office to carry out or not, so that the purpose of the reporting itself does not have any impact on the strength of the Recommendations. .

The recommendations issued by the Prosecutor's Commission are different from the outputs or recommendations of the Ombudsman when supervising the running of government, in fact, both are institutions that philosophically have the same function, namely to carry out supervision and evaluation of their respective objects. In addition, another similarity lies in the position of the two, which are

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State Auxiliary Agencies , have a supervisory function and have the right to issue recommendations.

In terms of Recommendations or outputs, Ombudsman Recommendations have binding force and must be obeyed by relevant officials, as stated in Article 38 of Law no. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia (UU Ombudsman RI), i.e. when the reported and his superiors do not carry out the recommendations from the Ombudsman or only execute part of the recommendations for no apparent reason, the ombudsman can take action by publishing the reported superiors who do not carry out and execute the recommendations. This is reinforced by the elucidation of the RI Ombudsman Law which reads as follows:¹⁴ “To enforce this Law, it is regulated regarding the imposition of administrative and criminal sanctions. Administrative sanctions are imposed on the Reported Party and the Reported Party's superiors who do not carry out the Ombudsman Recommendations, while Criminal sanctions are imposed on anyone who obstructs the Ombudsman from carrying out an examination.

By referring to the provisions of Article 38 and the elucidation of regulations regarding the Indonesian Ombudsman above, comparisons can be made between the two institutions. The Prosecutor's Commission Recommendation seems to be just a Recommendation aimed at the Attorney General and the President which is non-binding in nature, even to a certain degree this Recommendation looks like the *Amicus Curiae* given by the public to the court. The Prosecutor's Commission Recommendation should have the same binding power as the Ombudsman Recommendation, and it should even be better, because the object of supervision is the Prosecutor who is an element of law enforcement, so there is more responsibility to ensure that the Prosecutor works according to the corridor and does not commit ethical violations.

The most fundamental problem of the weak Prosecutor's Commission Recommendation is due to the legal basis for its establishment. The KKRI (Prosecutor's Commission of the Republic of Indonesia) was formed based on a Presidential Regulation (Perpres). This is based on the delegation by Article 38 of Law no. 16 of 2004 concerning the Prosecutor's Office which states that with the prerogative of the President, he can form a body or institution with the structure and rights determined by the President with the aim of improving the quality of the Attorney's performance.

Strengthening the legal basis of Prosecutor's Commission into a constellation of *legitimate laws and regulations* will uphold the supremacy of the law of the institution, because the current legal basis is only regulated in the Presidential Decree, which in fact is the President's own decision not in accordance with the principles of the *State Auxilliary Agency* . Presidential decisions which are self-determined by the President in this case are not in accordance with the principles of an Independent State institution, because of the President's

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relationship with *the State Auxiliary Agencies* such as the Prosecutor's Commission should be coordinating (independent), not sub-ordinating (dependent) as stipulated by Presidential Decree No. 8 of 2011.¹⁵ The Presidential Decree is basically the *implied power* (the power implied in the Constitution) that belongs to the President. The Prosecutor's Commission arrangement in a Presidential Regulation is actually quite good, because Law no. 12 of 2011 grants permission to delegate provisions of the law to lower regulations.

However, the urgency and complexity of the problems it handles, namely overseeing the performance of a law enforcer and ensuring that the individual does not commit a violation, then to gain better legal legitimacy it is necessary to strengthen the Prosecutor's Commission in the RI Prosecutor's Law. This is intended so that the continuity and existence of Prosecutor's Commission can survive and be more contributive in carrying out its duties.

According to Jimly Ashidiqie, Presidential Regulations must be limited and issued only with the intention of regulating matters that are only technical in nature for government administration and only made for the internal purpose of implementing the provisions of Laws and Government Regulations.¹⁶

The current legal basis for the Attorney General's Commission does not cover all aspects of personnel, functional and institutional as it should. In addition, the content of the Perpres is limited and does not have as wide a scope as the Law, so it will be difficult to change and improve the standing of the Prosecutor's Commission without first improving the quality of its legal basis.

The regulation of the Prosecutor's Commission is only limited to this Presidential Regulation which will have implications for the absence of law and order governing this institution. A. Hamid S. Attamimi defines the rule of law (*rechtsordnung*) as a part of the law, stands alone and plays a role in determining the entire formation of law in the integration of the order of law. This definition becomes a separate urgency when ensuring the presence or absence of a juridical unit in a legal order.¹⁷

The weakness of the Prosecutor's Commission Recommendations is also related to the Independence of the Prosecutor's Commission itself. It is as if the Prosecutor's Commission is not an Independent Commission, but just an ordinary Commission. This is reflected in the provisions regarding the composition and

¹⁵ Nurtjahjo, H. (2005). Nurtjahjo, H. (2005). *Lembaga, Badan dan Komisi Negara Independen (State Auxilliary Agencies) Di Indonesia : Tinjauan Hukum Tata Negara. Jurnal Hukum dan Pembangunan*. 35(3). (2005). p. 282.

¹⁶ Husen, A. (2019). *Eksistensi Peraturan Presiden Dalam Sistem Peraturan Perundang Undangan*, *Lex Scientia Law Review*. 3(1): (2019). p. 76.

¹⁷ Marilang, (2017). *Menimbang Paradigma Keadilan Hukum Progresif. Jurnal Konstitusi*. 14 (2).p. 318.

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method of appointing and dismissing members of the Prosecutor's Commission which are the right of the President. In fact, as an independent institution, appointment or dismissal should only take place based on the law of the institution concerned without the President being involved. Provisions regarding the composition of members of the Prosecutor's Commission are also current does not reflect the independence of the institution. Article 15 paragraph (1) of the Presidential Decree on the Prosecutor's Commission stipulates that 3 (three) members of the Commission are representatives of the government/state appointed by the President. Article 17 of the Presidential Decree adds that the President elects the chairperson and deputy chairperson from Prosecutor's Commission.

This can serve as a guideline for the Prosecutor's Commission in strengthening their Recommendations. Supposedly, administrative sanctions are also attached to the output of the Prosecutor's Commission in the form of the Recommendation. If the Prosecutor's Office does not implement the Recommendations given by the Prosecutor's Commission, the Prosecutor's Commission may impose administrative sanctions. Administrative sanctions here serve as a warning to the Prosecutor's Office, that the recommendation issued by the Prosecutor's Commission is a matter that deserves consideration or is used in handling cases of ethical violations by the Prosecutor, related to the position of the Prosecutor's Commission which is essentially a supervisor of the Prosecutor's own performance.

In the opinion of the author, in order to maintain legal certainty, it is necessary to regulate the provisions if the Recommendation from the Attorney General's Office of the Republic of Indonesia is not followed up by the Attorney General's Office or the President. As in the case of Prosecutor Pinangki. In both cases, the Prosecutor's Office did not implement the Recommendations given by the Prosecutor's Commission. This is because the recommendations given by Prosecutor's Commission do not have specific provisions regarding sanctions if the recommendations are not implemented, which allows the Attorney to weigh arbitrarily and not follow or implement the recommendations.

Therefore, ideally there should be a norm that regulates that if recommendations from the Prosecutors' Commission of the Republic of Indonesia are not immediately followed up by the Attorney General or the President, they will receive administrative sanctions and even criminal sanctions for those who do not implement these recommendations. That way, the Attorney General who does not follow up on the Recommendations from the Prosecutors' Commission of the Republic of Indonesia on certain crucial ethical cases, as the example the author mentioned in the previous discussion, the Attorney General will receive administrative sanctions.

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CONCLUSION

Whereas the Prosecutor's Commission in Supervision actions has the authority to provide recommendations on alleged violations of ethics or behavior of the Prosecutor, but these recommendations do not have the power of coercion to be carried out like the form of supervision carried out by the Ombudsman which has juridical consequences if the warning from the Ombudsman is not carried out can lead to legal consequences in the form of administrative to criminal sanctions, this of course creates unclear legal certainty from the oversight system owned by the Prosecutor's Commission, that the Prosecutor's Commission is included in State Institutions that have Executive Branch Agencies status in which this institution is a form of executive power branch

In carrying out its duties as a supervisory agency, it finds indications of alleged disgraceful acts committed by supervised objects, according to the laws and regulations that regulate it must be further processed to find whether or not these actions have occurred, if there is then the supervisory enforcement process such as imposing sanctions can be implemented and executed in a binding manner so that the nature of the supervisory duties given by the legislation creates legal consequences and legal certainty, that the Prosecutor's Commission is expected to become a State Institution that falls within the scope of *Independent Regulatory Bodies* , so that in carrying out its duties and functions the same completely pure and without any intervention from other power parties.

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