

**The Implementation of the Right of Investigation of the House of
Representatives to the State Institutions With Special Reference to
the Bank of Indonesia and the Corruption Eradication**

Commission Case

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ABSTRACT

The Right of Investigation based on article 77 (3) Law Number 7 of 2014 is the right of the House of Representatives in exercising to control the government policies. In the development the Right of Investigation is often used for the interests of the political parties. This research aim to evaluate the implementation of the Right of Investigation of the House of Representatives to the State Institutions particularly in case of the Corruption Eradication Commission and the Bank of Indonesia. This research by using constitutional and legislation approach. The results of this research found that the House of Representatives has reached the end of the process in making the Right of Investigation to the Bank of Indonesia, and the Corruption Eradication Commission that is the suggestion However there is no further implementation from the Government, the Bank of Indonesia, and the Corruption Eradication Commission. The House of Representatives has to make the Right of Investigation wisely. In the making of the Right of Investigation not merely in the basis of political interest.

Keywords: the Right of Investigation, the House of Representatives, the State institutions.

1. INTRODUCTION

Since the formation of legislative institutions in 1945 until now, there has been several times the House of Representatives has been using the Right of Investigation and control the government policies. Normatively position of the Right of Investigation is regulated in the Article 20 A Paragraph (2) of the 1945 Constitution and then stated further in the Law No. 17 of 2014.¹

The example of the execution of the Right of Investigation is in the Old Era. In the history of Indonesia, the Right of Investigation was used in the 1950s. Starting from the proposed resolution of RM Margono Djojohadikusumo to the House of Representatives to make the Right of Investigation on the government's efforts to obtain and use the State's foreign exchange. Then the Right of Investigation was made with 13 members and chaired by RM Margono.²

The different when the New Order era, the Right of Investigation becomes difficult to be implemented because it has to fight against authoritarian powers. Although in the New Order the the House of Representatives was controlled by the Golkar party as a faction in favor of the government, the proposal for the use of the Right of Investigation had passed in a plenary session of the House of Representatives which was held on July 7, 1980. The proposal of the Right of Investigation were dissatisfied with President Soeharto's reply, it was about

¹ Subardjo, "Penggunaan Hak Angket oleh Dewan Perwakilan Rakyat RI dalam Mengawasi Kebijakan Pemerintah", *Novelty*, Vol 7, No.1, 2016, p. 71.

² *Ibid*, p.74.

the case of H Thahir and Pertamina submitted by the Ministry of State Secretary Sudharmono on plenary session on July 21, 1980.³

During the era of President Susilo Bambang Yudhoyono, the Right of Investigation had been tried to be launched on a number of cases, such as the case of the increasing of fuel price which triggered reaction of the students, the problem of rice import in 2006, the hajj in 2008, and the uncertainty of the voters list. However the Right of Investigation on the cases never end clearly.⁴

Related with the case of the Bank of Indonesia to save the Bank of Century, became the object of the Right of Investigation of the House of Representatives because has a wide impact for the society and directly that policies related about the financial states. Obscurity of bailout the Century Bank became the object of the Right of Investigation because the involvement of the Governor of the Bank of Indonesia and the Ministry of Financial States to rectify the problem.⁵

Based on to the Corruption Eradication Commission, the origin of the Right of Investigation carried out by the House of Representatives to the Corruption Eradication Commission is originated from corruption cases of E-KTP. The House of Representatives ask to the Corruption Eradication Commission for video recorder of the suspect's of E-KTP cases, Miriam S. Haryani, who stated that there are some members of the House of Representatives who received the corruption result from the criminal act of corruption cases of E-KTP. The Corruption Eradication Commission mentioned the reason by not giving the

³ *Ibid*, p.75

⁴ *Ibid*, p.75.

⁵ *Ibid*, p.76.

recording because it felt that the tape recorder owned by the Corruption Eradication Commission it has been one of the evidence in the investigation and trial process.⁶

2. RESEARCH METHOD

2.1. Type of Research

The type of this research is a normative legal research. Normative legal research is a process to find a rule of law, principles of law, and the legal doctrines in order to address the legal issues faced the Right of Investigation of the House of Representatives to the state institutions.

In connection with the normative legal research, the researcher uses several approaches, namely statute approach. Statute approach is the approach using legislation and regulations and is done by examining all laws and regulations relevant to the legal issues being addressed.⁷ The research tells several regulations such as Act Number 17 of 2014 about legislative Institutions in Indonesia, Act Number 6 of 1954 about the Right of Investigation of the House of Representatives. The research also uses doctrine approach, because this research aims to finds the implementation of the Right of Investigation of the House of Representatives to the state institutions with doctrine from scholar related that issue.

⁶ Anonymous, 2017, "The beginning of the Right of Investigation of the House of Representatives to Corruption Eradication Commission, Indonesian Lawyer Club Tvone", Taken From, <https://www.youtube.com/watch?v=Bxb-H64u9z8> , Accessed on Friday, November 10th, 2017 at 3. 55 AM.

⁷ *Ibid*, p.93.

2.2. Type of Data

Data used in this research is secondary data. Secondary data consist of primary, secondary, and tertiary legal materials.

a. Primary legal material consists of several regulation as follows:

- 1) Law No. 6 of 1954 on the Right of Investigation of the House of Representatives.
- 2) Law No. 27 of 2009 on Legislation Institutions In Indonesia ;
- 3) Law No. 17 of 20014 on Amendment of Law Number 27 of 2009 on Legislation Institutions In Indonesia.

b. Secondary material consists of several documents related to the primary legal material such as:

- 1) Books;
- 2) Journals;
- 3) Others legal document related to the issue;
- 4) Black laws dictionary;
- 5) Trusted internet sites.

c. Tertiary legal materials:

- 1) Black Law Dictionary;
- 2) English dictionary;
- 3) Encyclopedia.

2.3. Technique of Collecting Data

The collecting data methods in this research done through library research by literature learning. This method will collect data from reading, analyze, and

try to make conclusion from related documents namely regulation, laws books, legal journals, and others which related to the main problem as the object of this research.

2.4. Data Analysis

The data will be analyzed systematically through qualitative juridical. It means the research will be analyzed based on constitutional law, especially the regulation about the Right of Investigation of the House of Representatives to the State institutions. It would be connected with the principle of law, doctrine from scholar, and others related regulation.

3. DISCUSSION

3.1. Brief Introduction of the Issue General

A. Brief Introduction of the Right of Investigation

Article 20 A Paragraph (2) of the 1945 Constitution explains that in performing its functions, the House of Representatives has the Right of Interpelation, the Right of Investigation, and Right of Opinion. The Right of Investigation is one of the rights possessed by the House of Representatives in performing its functions as a legislative institutions.

Article 77 Paragraph (3) of Law Number 17 of 2014 concerning the Legislative Institutions in Indonesia explains that the Right of Investigation is the right of the House of Representatives to conduct an investigation into a law and or government policy related to the important matters, strategic, and have

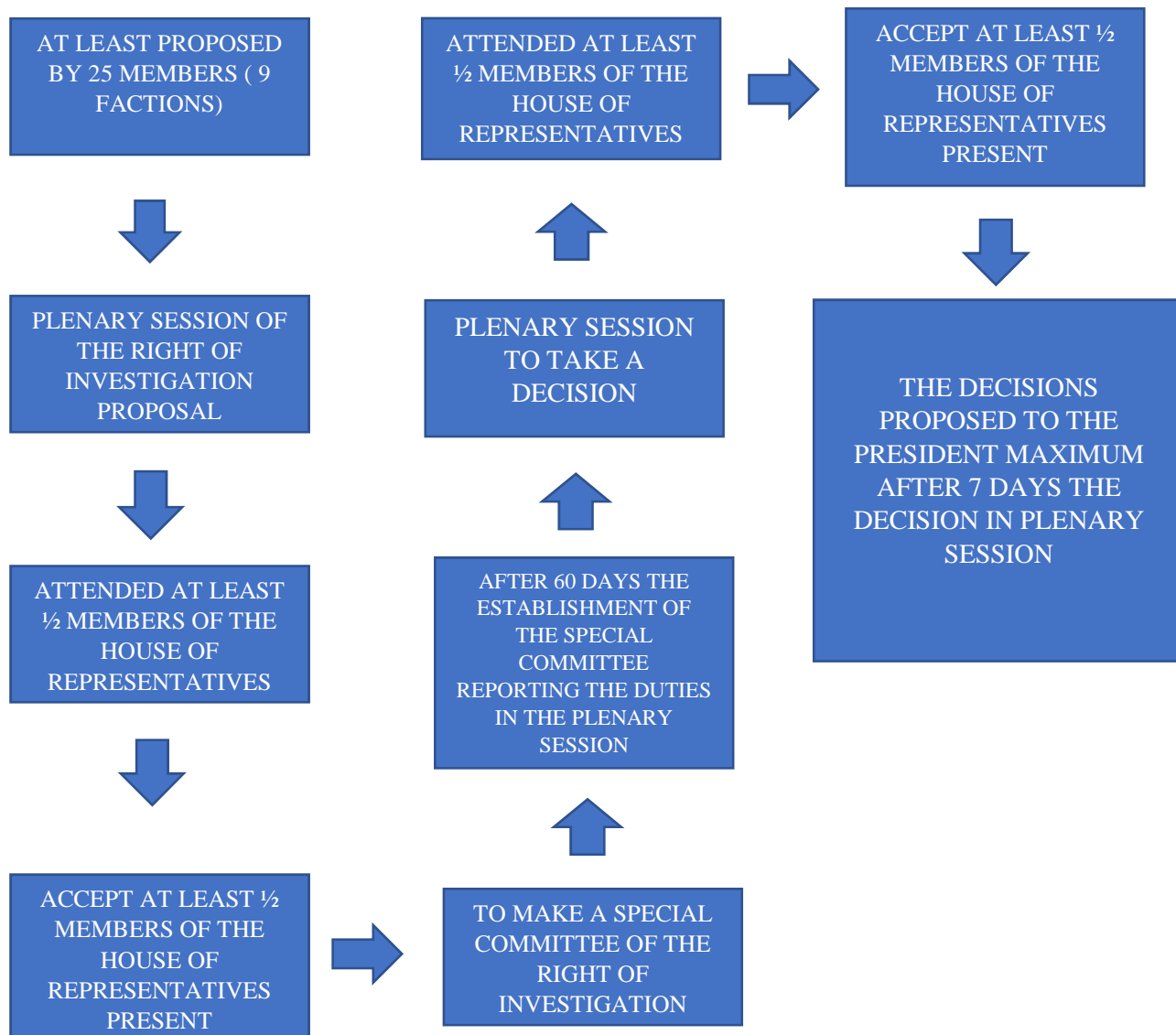
wide impact for the life of society, nation, and state which is contrary with the laws and regulations.

The definition of the Right of Investigation derived from the Black Law Dictionary is anquete which means "An examination of the witnesses (take down a writing) by the an authorized judge for the purpose of gathering testimony to be used in trial. The definition of the Right of Investigation in the Black Law dictionary has the meaning of an investigation to witness (in writing) either after or before being ratified by a judge with the aim of gathering witnesses to be used in court. According to the Great Indonesian Dictionary (KBBI) the Right of Investigation is the process of Investigation by the House of Representatives against the government policies.

Before conducting the Right of Investigation, firstly to conduct research on the purpose of implementation of the Right of Investigation and make a special committee of the Right of Investigation. The mechanism to submitted the Right of Investigation which can be done by the House of Representatives based on Article 177 up to Article 182 of Law Number 27 Year 2009 concerning the Legislative Body in Indonesia. ⁸:

⁸ *Ibid*, p.77

Mechanism of the Right of Investigation of the House of Representatives: ⁹



⁹ *Ibid*, p.79.

B. Brief Introduction of the State institutions

Indonesian state institutions are established under the 1945 Constitution, law, or by lower regulations.¹⁰ the state institutions at the central level can be distinguished in three institutional levels:

- 1.) Institutions established under the 1945 Constitution such as the President, the Vice President, the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Audit Board, the Supreme Court, the Constitutional Court, the Bank Central and the Judicial Commission (KY);
- 2.) Institutions established under laws such as the Attorney General's Office, the Bank Indonesia, the General Election Commission, the Corruption Eradication Commission, the Indonesian Broadcasting Commission, the Ombudsman and others;
- 3.) Institutions established under government regulation or Presidential Regulation; and Institutions established under the Ministerial Regulation.¹¹

¹⁰ Jimly Asshiddiqie, 2006, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Jakarta, Sekretariat Jendral dan Kepaniteraan Mahkamah Konstitusi Republik Indonesia, p.41.

¹¹ *Ibid*, p.49.

In terms of hierarchy, state institutions can be distinguished into three. The first can be called the state higher institution, the second can be called the state institutions and the third is a state institution whose source of authority comes from regulators or legislators under the law: ¹²

A. State higher institution consisting of:

- a) the President and the Vice President ;
- b) the House of Representatives ;
- c) the Regional Representative Council ;
- d) the People's Consultative Assembly ;
- e) the Constitutional Court (MK) ;
- f) the Supreme Court (MA) ;
- g) the Judicial Commission (KY) ; and
- h) the Supreme Audit Board (BPK).

B. Secondary state institutions under the 1945 Constitution

- a) State Minister (Article 17) the Minister of Home Affairs, the Minister of Foreign Affairs, the Minister of Defense is mentioned explicitly in the 1945 Constitution (Article 8 Paragraph 3).

¹² *Ibid*, p. 105-107.

- b) General, permanent, and independent electoral commissions, which are further stipulated in the law - the General Election Commission (Article 22E Paragraph 5)
- c) The Central Bank or in Indonesia which becomes the Bank of Indonesia whose structure, position, authority, responsibility and independence shall be further regulated by law – the Central Bank (Article 23D).
- d) The Indonesian National Army (Article 30 Paragraph 3) the Army, the Navy and the Air Force are mentioned explicitly in the 1945 Constitution (Article 10).
- e) State Police (Article 30 Paragraph 4).

There are also other institutions aligned with the second tier organization of state institutions established by law, drawn up between the House of Representatives and the President. This institution may be dissolved if the law or article governing the institution is cancelled through a judicial review in the Constitutional Court. Some examples of these institutions are:

- 1) the Attorney General's Office (Law No 16 of 2004);
- 2) the Financial Services Authority (Law No 21 of 2011);
- 3) the Deposit Insurance Corporation (Law No 24 of 2004);
- 4) the National Commission on Human Rights (Law No 39 of 1999);

- 5) the Corruption Eradication Commission (Law No 20 of 2002);
- 6) the Indonesian Broadcasting Commission (Law No 30 of 2002);
- 7) the Business Competition Supervisory Commission (Law No 5 of 1999);
- 8) the Indonesian Child Protection Commission (Law No 23 of 2002);
- 9) the Ombudsman of the Republic of Indonesia (Law No 37 of 2008)

The third group is the constitutional organs belonging to the category of state institutions whose source of authority comes from regulators or legislators under the law. That is, its existence is legally solely based on presidential policy (presidential policy). If the President is about to disband him again, then surely the President is authorized to do so. That is, its existence depends entirely on the President's policy. Examples of these institutions are:

- 1) the Creative Economy Agency (Presidential Decree No 6 of 2015)
- 2) the Finance and Development Supervisory Agency (Presidential Decree No 192 year 2014)
- 3) the Government Goods / Service Procurement Institution (Presidential Decree No 106 year 2007)
- 4) the National Resilience Institute (Presidential Decree No 67 year 2016);

In addition to state institutions within the structure located in the third part of the state institutions there are also the state auxiliary institutions whose position and the authority arranged in the law. As an the state auxiliary institutions the status and authority of the state auxiliary institutions is independent to carry out its functions and authority.

In the Republic of Indonesia there are many the state auxiliary institutions that have a role in the Indonesian state administration system. The state auxiliary institutions such as the General Election Commission, Nationality Commission on Human Rights , and the Corruption Eradication Commission. The state auxiliary institutions have different authority and can not get interference by any state institution to achieve the goal of every the state auxiliary institutions.¹³

In the development of the state auxiliary institutions such as the National Commission on Human Rights (Komnas HAM), the General Election Commission (KPU), the Ombudsman Commission, the Business Competition Supervisory Commission (KPPU), the State Commission on Examination of Wealth (KPKPN), the Corruption Eradication Commission (KPK), Truth Commission Reconciliation (KKR), and so forth.¹⁴

In the constitutional system, the existence of the state auxiliary institutions must be accompanied by a clear position, role and mechanism, so that according

¹³ Putera Astomo, 2014, *Hukum Tata Negara Teori dan Praktek*, Yogyakarta, Thafa Media, p.171.

¹⁴ *Ibid*, p. 240.

to Purnadi and Soerjono Soekanto, it is necessary to have a status or position to become a subject of constitutional law. It should also include a power, public service, freedom or human rights, and obligations to the public interest.¹⁵

3.2. The Implementation of the Right of Investigation of the House of Representatives to the Corruption Eradication Commission.

The House of Representatives through a plenary session formally to submit the formation of the Special Committee for the Right of Investigation of the Corruption Eradication Commission on 30 May 2017. The special committee of the Right of Investigation of the Corruption Eradication Commission (KPK) is still established despite many opposition from the public and some factions within the House of Representatives. One of example of the rejecting the establishment of the special committee of the Right of Investigation of The Corruption Eradication Commission was by the 357 professors from various universities in Indonesia.

The Right of Investigation itself is regulated in the Article 79 paragraph (3) of the Law No.17 of 2014 which states that the Rights of Investigation is the right of the House of Representatives to conduct an investigation on the implementation of the law and / or government policy related to important, strategic and broad impact for the life of society, nation, state that contrary to the laws and regulations.

¹⁵ *Ibid*, p. 241.

Members of the Commission III of House of Representatives, Taufiqulhadi, informed the Corruption Eradication Commission compliance report in 2015 regarding the budget governance that became the beginning of the People of Representatives in implementing the Rights of Investigation to the Corruption Eradication Commission. In the Corruption Eradication Commission compliance report in 2015 there are 7 indications of non-compliance of the Corruption Eradication Commission against the laws and regulations. There are 7 indications of non-compliance against the laws and regulations by the Corruption Eradication Commission¹⁶ :

1. Overpayment of salaries of the Corruption Eradication Commission employees who have not been completed for the execution of learning tasks.
2. Expenditures made by the directorate monitor information and data that is not equipped with adequate accountability and not in accordance with the budget.
3. Payment of official travel expenses, rental spending, and services from professional law firm not in accordance with the budget.
4. Travel activities from prosecution deputy of that are not supported by the warrant.
5. Standard cost of payment for honorarium of prosecution deputy not appropriate to the budget.

¹⁶Gibran Maulana Ibrahim, 2017, Reason of People Representative to make Right Of Investigation to Corruption Eradication Commission, taken from, <https://news.detik.com/berita/d-3486828/ini-sederet-alasan-dpr-gulirkan-hak-angket-kpk> accessed on wednesday, November 8th, 2017 at 3. 11 AM.

6. The realization of regular service travel expenditure is not in accordance with minimum budget requirements.
7. Planning of the Corruption Eradication Commission building is not careful, resulting in overpayment.

According to the Corruption Eradication Commission, the origin of the Right of Investigation carried out by the House of Representatives to the Corruption Eradication Commission is originated from corruption cases of E-KTP. The House of Representatives asked to the Corruption Eradication Commission for video recorder of the suspect's E-KTP, Miriam S. Haryani, who stated that there were members of the House of Representatives who received the corruption result from the criminal act of corruption cases of E-KTP. The Corruption Eradication Commission mentioned the reason by not giving the recording because it felt that the tape owned by the Corruption Eradication Commission has been one of the evidence in the ongoing investigation and trial process.¹⁷

Based on the decision of the Constitutional Court NUMBER 36 / PUU-XV / 2017 which examined Law No. 17 of 2014 regarding the implementation of the Rights of Investigation conducted by the House of Representatives by the petitioners parties from the Law and Constitutional Studies Forum, Yudisthira Rifky Darmawan, and Tri Susilo has violated the constitution and is not in accordance with article 79 paragraph 3 of Law No. 17 of 2014. The House of

¹⁷ Anonymous, 2017, The beginning of Right of Investigation of People Representative to Comission Eradication Comission, Taken from, <https://www.youtube.com/watch>, accessed on Friday, November 10th, 2017 at 3. 55 AM.

Representatives cannot exercise the Right of Investigation to the Corruption Eradication Commission because it is an independent institution and not an institution under the government.

According to the petitioners that the scope of the Right of Investigation owned by the House of Representatives has been clearly and firmly regulated in "a quo" norm, especially on the phrase "the implementation of a law and / or Government policy". It is then affirmed in the limitative explanation stating "The implementation of a law and / or Government policy may be a policy carried out by the President himself, the Vice President, the state minister, the TNI Commander, the Chief of Police, the Attorney General, or the head of the non-ministerial government institution."¹⁸

If the Rights of Investigation imposed on the Corruption Eradication Commission, the investigation efforts that are compelling to the Corruption Eradication Commission to submit the data to the special committee of the Right of Investigation without any regulatory constraints can disrupt the independence of the Corruption Eradication Commission which has been regulated in the law. This is one of the interventions to the effort of the Corruption Eradication Commission to eradicate the corruption.¹⁹

¹⁸ Resume Constitutional Court Decision Number 36/PUU-XV/2017 , 2017, Taken From http://www.mahkamahkonstitusi.go.id/public/content/persidangan/resume/resume_perkara_1775_Perkara%20No%2036.pdf , Accessed on Sunday March 25th, 2018 at 00.20 AM.

¹⁹ Constitutional Court Decision Number 36/PUU-XV/2017, 2017, Taken From http://www.mahkamahkonstitusi.go.id/public/content/persidangan/risalah/risalah_sidang_9400_PERKARA%20NOMOR%2036.37.PUU-XV.2017%2019%20JULI%202017.pdf , Accessed on Sunday March 25th, 2018 at 00.50 AM.

After the Decision of the Constitutional Court Number 36 / PUU-XV / 2017 was issued, the court made a press release that explains the reason why they rejected the petitioners. In a press release issued by the Constitutional Court there are several important points related to the implementation of the Rights of Investigation carried out by the House of Representatives against the Corruption Eradication Commission.²⁰

- 1) The Decision of the Constitutional Court Number 36 / PUU-XV / 2017 basically rejects the petitioners argument concerning the principle of unconstitutionality based on the Article 79 paragraph (3) of Law Number 7 of 2014 in particular phrase "the implementation of a law and / or Government policy". The Constitutional Court stated that the Corruption Eradication Commission is the scope of executive power.
- 2) In the decisions of the Court, it is clearly stated that there are essential points, namely :
 - A. Positioning the Corruption Eradication Commission into state institutions located in the realm of executive power, for carrying out the task of investigation, and prosecution in the corruption case which is the same as the authority of the police and / or prosecutor.
 - B. Based on this matter, the Corruption Eradication Commission is a state institution in the domain of executive power. Therefore the Corruption

²⁰ Conference Pers Constitutional Court Decision Number 36/PUU-XV/2017 , 2017, Taken From http://www.mahkamahkonstitusi.go.id/public/content/infoumum/press/pdf/press_425_15.2.18%20press%20release%20putusan%20hak%20angket%20dpr.pdf ,Accessed on Sunday March 25th, 2018 at 04.15 AM.

Eradication Commission can be the object of the use of the Right of Investigation of the House of Representatives as the representative of the people who carry out the supervision function.

C. Although the implementation of the Right of Investigation can not be applied in the event that the Corruption Eradication Commission carries out the investigation, and prosecution tasks, the independence of the Corruption Eradication Commission cannot be intervened by other parties

- 3) The decision made by the Constitutional Court, there is a growing opinion in the public that based on the Decision Number 36 / PUU-XV / 2017 is inconsistent or contradictory to the previous decision, as it is mentioned, in some decisions such as (1) Decision Number 012-016-019 / PUU -IV / 2006 dated December 19, 2006, (2) of Decision Number 5 / PUU-IX / 2011 dated June 20, 2011; and (5) Decision Number 49 / PUU-XI / 2013 14 November 2013. It is important to emphasize that in the previous rulings, the Court has never held the opinion that the Corruption Eradication Commission is essentially a state institution in a certain domain of authority, whether it is legislative, executive, or judiciary. Based on the new Decision Number 36 / PUU-XV / 2017 , the Court expressed the opinion that the Corruption Eradication Commission is a state institution in the realm of executive power. It can be tracked by tracing the three decisions.
- 4) Basically it can be said that the Constitutional Court affirms the Right of Investigation as the constitutional right of the House of Representatives to perform a supervisory function can be implemented to the Corruption

Eradication Commission. The Constitutional Court also upheld the position of Corruption Eradication Commission because although it is became the object of the Right of Investigation of the House of Representatives. The Right of Investigation is restricted not to the judicial duties and jurisdiction of Corruption Eradication Commission and investigation corruption. The Constitutional Court stated that this decision is not a form or effort to weaken the Corruption Eradication Commission.

- 5) The Constitutional Court affirmed that the Corruption Eradication Commission is a state institution which in carrying out its duties and authority independently. Although it should not be interpreted not covered by the supervision of the House of Representatives as the people's representative. This verdict actually affirms the arrangement of institutional relations between the House of Representatives and the Corruption Eradication Commission based on constitutional principles and government systems in line with the paradigm of checks and balances under the 1945 Constitution.

According to the Chairman of the Association of Administrative Law and Constitutional Law Mahfud MD, there are three fundamental matters related to the special committee created by the House of Representatives to implement the Right of Investigation to the Corruption Eradication Commission. The legal subject of the Right of Investigation is incorrect, the object of the Right of

Investigation is not fulfil the requirement, and the procedures are not standard.

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The expert of Constitutional Law, Yusril Ihza Mahendra considers the House of Representatives have an authority in establishing a special committee of the Right of Investigation to the Corruption Eradication Commission. The formation of a special committee is considered to have legality because it is in accordance with the duties and authority of the House of Representatives in exercising supervision over the implementation of the law. The House of Representatives implemented the Right of Investigation to the Corruption Eradication Commission because the Corruption Eradication Commission is established by the law.²²

The following is a recommendations from the House of Representatives to Corruption Eradication Commission :

1. Ask the president in perfecting organization structure of the Corruption Eradication Commission based on Law No.3 of 2002.
2. Ask the Corruption Eradication Commission to increasing the relationship with the law enforcement institutions and the other institutions.

²¹ Kristian Erdianto, 2017, "The Right of Investigation for Corruption Eradication Commission is not fulfill the requirments based on Act Number 27 Of 2009", Taken From, [Http://Nasional.Kompas.Com/Read/2017/06/16/06510301/Angket.Kpk.Polemik.SoaI.Cacat.Hukum.Dan.Celah.Menggugat.Hasil.Pansus](http://Nasional.Kompas.Com/Read/2017/06/16/06510301/Angket.Kpk.Polemik.SoaI.Cacat.Hukum.Dan.Celah.Menggugat.Hasil.Pansus) , Accessed on Friday November 10th, 2017 at 4.00 AM.

²² Dimas Jarot Bayu, 2017, Dewan Perwakilan Rakyat Berwenang Mengadakan Hak Angket terhadap Komisi Pemberantasan Korupsi, Taken from, <https://katadata.co.id/berita/2017/07/10/yusril-dpr-berwenang-bentuk-pansus-hak-angket-kpk> , Accessed on Tuesday April 17th , 2018 at 02.13 PM.

3. The president and the Corruption Eradication Commission should be making an independent institutions to supervise the task of Corruption Eradication Commission.
4. The Corruption Eradication Commission to build the strenght work relationship in coordination duties with the Police and the Attourney.
5. To optimalize the using of budgeting.

3.3. The Implementation of the Right of Investigation of the House of Representatives to the Bank of Indonesia

The Special Committee of the Right of Investigation of the House of Representatives to the Bank of Indonesia was formed on 1 December, 2009. Then in a plenary session proposed by the 503 members of the House of Representatives, the House of Representatives legalized and approved the implementation of the Right of Investigation to reveal the scandal of Century Bank supported by 9 fraction.²³The Special Committee on the Rights of Investigation of Century Bank originated from the proposers consisting of nine people who came to be called Team 9, namely Maruarar Sirait (PDIP), Ahmad Muzani (Gerindra), Andi Rahmat (PKS), Lili Wahid (PKB), Mukhamad Misbakhun (PKS), Akbar Faisal (Hanura), Chandra Tirta Wijaya (PAN), Kurdi Mukhtar (PPP), and Bambang Soesetyo (Golkar).

Related to the implementation mechanism of the Right of Investigation in the case of Century Bank experienced a lot of debate that occurred between the

²³ Anonymous, 2014, Hak Angket DPR terhadap BI, Taken from, https://id.wikipedia.org/wiki/Panitia_Khusus_Hak_Angket_Bank_Century, Accessed on Wednesday April 24th, 2018 at 2.26 PM.

House of Representatives. The existing fraction in the House of Representatives have different views, then basically the Right of Investigation will only proceed on the political interest. If the meeting mechanism is debated then it is followed by a vote, with a majority vote determining the final outcome of a determined an investigation, in the case of Century Bank where the majority of the House of Representatives determines by option that the Right of Investigation is continued in the legal proceedings by calling Vice President and Finance Minister Sri Mulyani to be investigated by law enforcement.²⁴

The Audit Board Institutions submitted the results of an investigation of the 6.7 trillion rupiah of the Century Bank funds to the House of Representatives. In the audit, the Bank of Indonesia's error in Century Bank case was seen. The violation is suspected when Century Bank has bad debts but rated good by Bank of Indonesia. Furthermore, the Bank of Indonesia is not explicit against other violations, and the Bank of Indonesia provides minor of sanction for Century Bank. There is also a crime when giving Short Term funding facility to Century Bank. In the implementation as a failed bank, the Bank of Indonesia cannot provide accurate data and the disbursement of bailout funds of Century Bank swelled from the original plan is Rp632 billion to Rp6, 7 Trillion.

According to former Indonesian Economic Ministry Rizal Ramli there is actually another way to solve the case of Century Bank other than bailout funds that is by closing or take over Century Bank by another bank such as Mandiri

²⁴ Sulkaris S. Lepa Ratu, "Hakikat Hak Angket oleh DPR dalam Sistem Ketatanegaraan Indonesia", *Mimbar Keadilan Jurnal Ilmu Hukum*, Vol.5, No.1, 2017, p.222.

Bank, however, his proposal did not get any response from the Bank of Indonesia that preferred to conduct bailout funds to the Century Bank.

The following is a recommendations from the House of Representatives against the Bank of Indonesia concerning the Century Bank cases: ²⁵

- 1) The legal process is required to the management of the Century Bank, including taking legal steps to the Bank of Indonesia officials who allegedly involved in committing a crime.
- 2) Ask the House of Representatives to revise the legislation related to monetary and fiscal sectors.
- 3) The Government and the House of Representatives must established a Law on the Financial Services Authority for the independence of the financial institutions and the financial safety sector act as the legal jurisdiction of the government to draw conclusions in times of crisis.
- 4) The Bank of Indonesia must improve internal rules to minimize the abuse of authority by its officials.
- 5) The government needs to established a team of asset hunters taken illegally by perpetrators of criminal acts. Such efforts should be reported to the House of Representatives.

²⁵ Anonymous, 2014, Hak Angket DPR terhadap BI, Taken from, https://id.wikipedia.org/wiki/Panitia_Khusus_Hak_Angket_Bank_Century, Accessed on Wednesday April 24th, 2018 at 2.43 PM

4. CONCLUSION AND RECOMMENDATION

4.1. Conclusion

Based on the discussion in the previous chapter, the implementation of the Right of Investigation to the Bank of Indonesia and the Corruption Eradication Commission has reached the end of process of the investigation that is recommendation. However there is no further action taken by the Government, the Bank of Indonesia, and the Corruption Eradication Commission.

4.2 Recommendation

The problem of using the Right of Investigation of the House of Representatives to the state institutions is because to some extent it can be more political. Therefore the House of Representatives has to use the Right of Investigation wisely. It means that the House of Representatives has to look more at the reason why the investigation was issued. The use of the Right of Investigation is part of the check and balances mechanism, not merely on the basis of political interest.

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