

Legal Analysis of The Legal Regulations for The Return of Confiscated Items Based on Article 133 of the Kuhap

Urip Tri Gunawan¹⁾ & Muhammad Taufiq²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-Mail: uriptrigunawan.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-Mail: muhammadtaufiq@unissula.ac.id

Abstract. *This study aims to analyze the legal provisions regarding the return of confiscated objects after a pretrial decision based on Article 133 of Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHAP), and to examine the legal status and force of pretrial decisions in the criminal justice system in Indonesia. The type of research used in this study is Normative Juridical legal research. The results of the study indicate that Article 133 of Law Number 20 of 2025 concerning the Criminal Procedure Code has basically provided a clear normative basis regarding the obligation to return confiscated objects to the entitled party if the objects are no longer needed in the evidentiary process. This provision reflects the principle of property rights protection and the principle of legal certainty in the criminal justice system. In addition, a pretrial decision declaring a confiscation invalid has binding legal force and must be implemented as a form of restoration of the original state (restitutio in integrum). However, the Criminal Procedure Code has not yet expressly regulated the mechanism for executing pretrial decisions, thus creating obstacles in their implementation.*

Keywords: Arrangement; Confiscated; Objects; Return.

1. Introduction

From a legal perspective, confiscated objects play a crucial role in criminal procedural law as part of the evidentiary process in criminal trials. Confiscation is a form of coercive action taken by investigators to establish evidence in order to clarify a crime and identify the suspect (Criminal Procedure Code (KUHAP), Law No. 20 of 2025, Article 1 number 2).

According to M. Yahya Harahap, confiscation is a legal action that directly affects a person's property rights, so its implementation must be carried out carefully and based on statutory provisions so as not to result in human rights violations (M. Yahya Harahap, 2026). In this context, confiscated objects serve not only as evidence but also directly relate to a person's ownership rights. Therefore, regulations regarding the confiscation and return of confiscated objects must be based on the principles of legal certainty and human rights protection.

Provisions regarding the return of confiscated objects are regulated in Article 133 of Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHP) ("Law No. 20/2025") which is an amendment to Article 46 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP) ("Law No. 8/1981") which in principle states that confiscated objects must be returned to the entitled party if they are no longer needed in the investigation and prosecution process (Criminal Procedure Code, Article 133). However, in practice, these provisions are often not implemented optimally.

According to Sudikno Mertokusumo, legal certainty means that the law must be implemented as it should be and must not give rise to doubts in its application (Sudikno Mertokusumo, 2009). Thus, the failure to return confiscated objects indicates a violation of the principle of legal certainty.

In the Indonesian criminal justice system, the mechanism for controlling coercive measures, including seizures, is carried out through the pretrial hearing. Pretrial hearings serve to test the legality of law enforcement actions such as arrest, detention, and termination of investigations or prosecutions (Rian Azismi, 2019). Pre-trial is an important instrument in the criminal justice system to guarantee the protection of human rights from arbitrary actions by law enforcement officers (Romli Atmasasmita, 2011).

Sociologically, along with legal developments, the object of pre-trial proceedings has been expanded through Constitutional Court Decision Number 21/PUU-XII/2014 which includes the determination of suspects, searches and confiscations (Ovaldo Sepang, 2018). And then it experienced further expansion based on Law Number 20 of 2025 concerning the Criminal Procedure Code which includes the legality of the implementation of coercive measures, the legality of the termination of investigations or prosecutions, requests for compensation and/or rehabilitation, confiscation of objects or goods that are not related to criminal acts, postponement of case handling without valid reasons and suspension of detention. This shows the development of the law towards a justice system that better guarantees the protection of individual rights. This expansion is in line with the principle of due process of law which according to Satjipto Rahardjo emphasizes that the law must protect humans and must not be used as a tool of arbitrary power (Satjipto Rahardjo, 2009). However, in practice, serious problems remain, particularly regarding the implementation of pretrial decisions. Theoretically, pretrial decisions are binding and must be enforced by law enforcement officials. If an action is declared invalid, the authorities are obligated to restore the rights of the injured party (Jekson Sipayung, 2016). Facts on the ground show that not all pretrial rulings can be enforced. This indicates weaknesses in the criminal procedure system, particularly regarding the mechanism for executing pretrial rulings, which is not explicitly regulated in the Criminal Procedure Code (KUHP).

In the case that is the object of this research, namely the Batam District Court Pretrial Decision Number: 1/Pid.Pra/2022/PN.Btm, dated April 25, 2022, the pretrial motion against the Customs and Excise agency has been granted, but the decision cannot be executed to date because the respondent has not implemented the decision. This situation creates legal

uncertainty and is detrimental to parties who should receive legal protection. Legal protection for citizens must be realized through effective legal mechanisms, including the implementation of court decisions (Philipus M. Hadjon, 1987). Therefore, the failure to implement a pretrial decision can be categorized as a failure of legal protection by the state.

Philosophically, a state based on the rule of law requires the supremacy of law, where every court decision must be respected and implemented by all parties without exception (Jimly Asshiddiqie, 2010). Therefore, the failure to implement the pretrial decision in this case indicates a violation of the principle of the rule of law as regulated in the 1945 Constitution, especially Article 28 (1) which states that everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law, so that the failure to implement the pretrial decision will weaken the authority of the judiciary. In addition, there needs to be a reformulation of the pretrial regulations in order to provide stronger legal certainty, especially regarding the implementation of the decision (Meki Wahyudi, 2011).

2. Research Methods

The type of research used in this study is normative juridical legal research, which is research conducted by reviewing library materials or secondary data as the main source. According to Soerjono Soekanto, normative legal research is research that focuses on written legal norms contained in laws and court decisions (Soerjono Soekanto, 2019).

3. Results and Discussion

3.1. Legal Regulations for the Return of Confiscated Objects in the Criminal Procedure Code

The provisions regarding the return of confiscated objects in Indonesian criminal procedure law are an integral part of the confiscation system stipulated in Law Number 20 of 2025 concerning the Criminal Procedure Code. This provision is expressly stipulated in Article 133, which states that confiscated objects must be returned to the most entitled party if the interests of the investigation and prosecution no longer require them. In addition, regulations regarding confiscation in general are also contained in Articles 118 to 135, which regulate the procedures, requirements, and legal status of confiscated objects. Thus, the return of confiscated objects is an inseparable legal consequence of the confiscation act itself.

From a criminal procedural law perspective, confiscation is a form of coercive action carried out by law enforcement officials for the purpose of providing evidence. However, because this action affects a person's property rights, its implementation must be carried out strictly and in accordance with applicable legal provisions. Therefore, the return of confiscated objects is a form of restoration of rights that must be granted to the entitled party after the need for evidence has expired. According to M. Yahya Harahap, the return of confiscated objects is a logical consequence of the end of the need for evidence in a criminal case, so that the state no longer has a legal basis to control the objects (M. Yahya Harahap, 2016).

Furthermore, regulations regarding the return of confiscated objects are also closely related to the principle of protecting property rights as part of human rights. The state is not permitted to detain or control an individual's property without a valid and clear legal basis. In this case, the return of confiscated objects is a manifestation of legal protection for individuals from arbitrary actions by law enforcement officials. This aligns with Philipus M. Hadjon's view that legal protection for citizens includes protection of property rights from unauthorized government actions (Philipus M. Hadjon, 1987).

Furthermore, the return of confiscated objects must be carried out based on the principle of legal certainty. This means that once there is no longer any legal interest in the object, the return must be carried out immediately without any unreasonable delay. This principle is important to ensure that the law not only provides norms but also provides certainty in its implementation. According to Sudikno Mertokusumo, legal certainty implies that the law must be implemented consistently and without creating doubt in its application (Sudikno Mertokusumo, 2009).

In practice, the return of confiscated objects can be carried out under several conditions, namely if the case is terminated, if the object is no longer needed in the evidentiary process, or if a court decision stipulates that the object must be returned to the rightful party. Thus, the return of confiscated objects can be carried out both during the investigation stage and after a court decision is issued. The party entitled to receive the return of confiscated objects is generally the party with legal ownership rights, whether the suspect, the victim, or a third party acting in good faith. Determination of the rightful party must be based on evidence of legal ownership and the legal relationship to the object.

However, although the provisions regarding the return of confiscated objects are clearly stipulated in the Criminal Procedure Code (KUHP), in practice various problems often arise, such as delays in returns, non-implementation of court decisions, and conflicts of authority between agencies. This situation indicates a gap between applicable legal norms and their implementation in the field. According to Soerjono Soekanto, the effectiveness of the law is greatly influenced by factors such as law enforcement officers, facilities and infrastructure, and the legal culture of the community (Soerjono Soekanto, 2008). Therefore, the success of the implementation of the return of confiscated objects is not only determined by the existence of legal norms, but also by the compliance and integrity of law enforcement officers in implementing these provisions.

In the context of this research, the legal provisions regarding the return of confiscated objects are of crucial relevance, particularly in relation to the implementation of pretrial decisions. Normatively, the Criminal Procedure Code (KUHP) provides a clear legal basis for the obligation to return confiscated objects. However, in practice, this obligation is not always enforced, as seen in cases involving Customs and Excise. This suggests that the primary problem lies not in the absence of norms, but rather in the implementation of the law itself, which is the primary focus of this research.

Furthermore, the provisions regarding the return of confiscated objects in the Criminal Procedure Code must also be understood within the framework of an integrated criminal justice system, in which each stage of the judicial process is closely interconnected. In this system, the status of confiscated objects is not only determined during the investigation stage but also depends heavily on the final outcome of the judicial process, including final and binding court decisions. Therefore, the return of confiscated objects cannot be separated from judicial authority as the final determinant of the legal status of objects subject to confiscation (Lilik Mulyadi, 2012).

Furthermore, doctrinally, the return of confiscated objects is a concrete manifestation of the principle of *restitutio in integrum*, which requires the restoration of the original state of affairs if a legal action is declared invalid. In this context, if the confiscation is carried out without a valid legal basis or is declared invalid through a pretrial decision, the state has a legal obligation to return the objects to the rightful party. This obligation is not merely administrative, but rather a legal obligation inherent as a consequence of the legal violation that has occurred (Andi Hamzah, 2012).

Furthermore, it should be noted that in practice, the return of confiscated objects is often related to the issue of proving ownership rights. In the event of a dispute regarding ownership of confiscated objects, the Criminal Procedure Code (KUHP) does not provide a comprehensive resolution mechanism, so that other legal remedies outside of criminal procedure, such as civil lawsuits, are often required. This indicates the limitations of the KUHP in comprehensively regulating the return of confiscated objects, particularly in cases of ownership claims from third parties (Eddy OS Hiariej, 2019).

On the other hand, the regulation regarding the return of confiscated objects also has a state administrative law dimension, especially if the confiscated objects are in the possession of certain government agencies. In this case, the obligation to return confiscated objects is based not only on the Criminal Procedure Code, but also on general principles of good governance (*algemene beginselen van behoorlijk bestuur*), such as the principle of legal certainty, the principle of accuracy, and the principle of not abusing authority. If a government agency fails to fulfill these obligations, then the action can be classified as an abuse of authority (Philipus M. Hadjon, et al., 2010).

Furthermore, from a comparative legal perspective, several countries have more stringent regulations regarding the mechanism for returning evidence and confiscated objects, including a compensation mechanism in the event of errors in confiscation. This indicates that the provisions in the Criminal Procedure Code (KUHP) still have weaknesses, particularly in terms of protecting parties harmed by unlawful confiscation. Therefore, an update to criminal procedural law is needed that is more responsive to evolving societal needs and the principles of human rights protection (Erwin Susilo, et al., 2025).

Furthermore, the return of confiscated objects also has implications for public trust in the criminal justice system. Failure to return confiscated objects despite a clear legal basis can lead

to public distrust of law enforcement. In this context, the return of confiscated objects is not only a legal issue but also affects the legitimacy of law enforcement institutions in the eyes of the public (Soerjono Soekanto, 2012).

Thus, the provisions on the return of confiscated objects in the Criminal Procedure Code must be understood not only as a procedural norm, but also as an instrument for protecting human rights, restoring justice, and as an indicator of the effectiveness of the criminal justice system. Weaknesses in its implementation indicate that the primary problem lies not in the absence of the norm, but rather in its suboptimal implementation and the absence of an effective enforcement mechanism for the obligation to return confiscated objects.

3.2. Legal Status of Pretrial Decisions on Confiscation.

Pretrial proceedings are a control mechanism in criminal procedure law that serves to test the validity of coercive measures taken by law enforcement officers, including confiscation. In the development of law in Indonesia, the position of pretrial proceedings has experienced significant strengthening, particularly following the enactment of the new Criminal Procedure Code, namely Law Number 20 of 2025 concerning the Criminal Procedure Code, which expanded the objects of pretrial proceedings, including confiscation. With this expansion, confiscations that were previously not explicitly included in the objects of pretrial proceedings can now be tested for their validity through the pretrial mechanism, thereby providing broader legal protection to the public.

From a criminal procedure perspective, confiscation is an action that directly limits a person's property rights, so it must be carried out legally, proportionally, and based on applicable legal provisions. If the confiscation is carried out without fulfilling the formal and material requirements as stipulated in the Criminal Procedure Code, then the action can be declared invalid through a pretrial decision. According to M. Yahya Harahap, every coercive measure declared invalid through a pretrial has legal consequences in the form of an obligation to restore the original condition (*restitutio in integrum*), including the return of the confiscated object (M. Yahya Harahap, 2016).

Thus, the legal standing of a pretrial decision regarding a seizure is very strong, as it is not only declaratory in determining the legality of an action, but also has direct implications for the legal status of the seized object. A pretrial decision declaring a seizure invalid legally removes the legal consequences of that action, so that the seizure is deemed never to have existed. Consequently, the seized object must be immediately returned to the rightful party without the need for an additional decision.

Furthermore, pretrial decisions have binding legal force on all parties, including law enforcement officers who are respondents in pretrial cases. This demonstrates that pretrial decisions are not merely administrative decisions, but rather court decisions that must be implemented. According to Romli Atmasasmita, pretrial decisions are an instrument for

protecting human rights in the criminal justice system, so every decision must be respected and implemented as a form of respect for the law (Romli Atmasasmita, 2011).

However, in practice, pretrial decisions declaring seizures illegal are often not enforced by law enforcement officials. This situation indicates a gap between the normative legal force of the decision and its implementation in practice. Failure to enforce such decisions not only contradicts the provisions of criminal procedure law but also violates the principle of the rule of law. According to Jimly Asshiddiqie, in a state governed by the rule of law, every court decision must be implemented as a form of legal supremacy, so ignoring court decisions constitutes a violation of this principle (Jimly Asshiddiqie, 2010).

In the context of this research, the legal standing of pretrial decisions regarding confiscation is crucial, as it directly relates to the obligation to return the seized objects. If a pretrial decision declares the confiscation invalid, then legally there is no longer any basis for the state or any other agency to retain control of the objects. Therefore, the failure to enforce a pretrial decision indicates a serious violation of the law and the weak effectiveness of the legal system in guaranteeing human rights protection.

Furthermore, the legal standing of pretrial decisions regarding confiscation must also be viewed within the framework of the principle of judicial control over coercive measures. In the modern criminal procedure system, any action that restricts human rights must be subject to judicial oversight to prevent abuse of authority by law enforcement officials. Thus, pretrial proceedings serve not only as a corrective mechanism but also as a check and balance instrument in the criminal justice system (Lilik Mulyadi, 2012).

In this context, a pretrial ruling declaring a seizure invalid serves as a judicial correction to executive action. This means that the seizure carried out by investigators loses its legal legitimacy once it is declared invalid by the court. Therefore, any subsequent action that maintains control of the seized property after such a ruling can be categorized as an action without legal basis (*onrechtmatige overheidsdaad*), which opens up legal liability for the relevant authorities or agencies (Ridwan HR, 2014).

Furthermore, theoretically, pretrial decisions also have an *erga omnes* dimension, particularly regarding the legal status of coercive measures. Although formally, a decision is only binding on the parties, in the context of seizure, the determination that an action is illegal should be universally recognized by all state organs. This is crucial to ensure the consistency of the legal system and prevent dualism in assessing the legal status of an action (Eddy OS Hiariej, 2011).

On the other hand, it is important to note that the legal force of pretrial decisions in practice is often diminished by the lack of an effective enforcement mechanism. This gives rise to a phenomenon known in legal studies as the normative compliance gap, namely the gap between applicable legal norms and the level of compliance with those norms. In this context, although pretrial decisions have strong legal force normatively, without a coercive instrument,

their implementation depends heavily on the good faith of law enforcement officials (Soerjono Soekanto, 1982).

Furthermore, the status of pretrial decisions regarding confiscation can also be analyzed through a human rights approach, particularly regarding the right to property. In various international instruments, property rights are recognized as a fundamental right that must be protected by the state. Therefore, if a confiscation has been declared unlawful, the failure to return the confiscated property can be classified as a violation of human rights. In this context, the state is not only obliged to respect but also to protect and fulfill this right (Rhona KM Smith, 2008).

Furthermore, from the perspective of authority theory, seizure by law enforcement officers constitutes the exercise of attributive authority granted by law. However, if this authority is used illegally or exceeds the specified limits, the action lacks legitimacy. In this case, a pretrial ruling serves as a mechanism to assess whether the use of this authority complies with the principles of legality and proportionality. If not, the consequence is the annulment of the action and all its legal consequences (Philipus M. Hadjon, 2005).

Furthermore, in law enforcement practice, institutional resistance to the implementation of pretrial decisions often occurs, particularly when the decision is deemed to conflict with the interests of law enforcement or the policies of a particular institution. This phenomenon demonstrates a conflict between the crime control approach and the due process model in the criminal justice system. In this case, pretrial represents the due process approach, which emphasizes the protection of individual rights, while resistance to the implementation of the decision reflects the dominance of the crime control approach (Herbert L. Packer, 1968).

Thus, the legal standing of pretrial decisions regarding confiscation must be understood not only within the framework of positive law, but also within the context of legal theory, human rights, and the dynamics of law enforcement. The normative power of pretrial decisions should ensure effective rights restoration, but in practice, they still face various structural and cultural obstacles. This demonstrates the need to strengthen enforcement mechanisms and increase compliance among law enforcement officials to ensure that pretrial decisions are truly effective in achieving justice.

Failure to enforce pretrial decisions in the Indonesian criminal procedure system has serious legal consequences, both from a normative and institutional perspective, as well as from a human rights perspective. In principle, pretrial decisions are court decisions that have binding legal force on the parties and must therefore be enforced without exception. Therefore, ignoring pretrial decisions not only undermines legal certainty but also undermines the integrity of the criminal justice system itself.

From a criminal procedural law perspective, the failure to enforce a pretrial decision indicates that it has lost its effectiveness as a law enforcement instrument. In fact, the primary function of a court decision is to provide a final and enforceable resolution. According to M. Yahya

Harahap, every court decision that has permanent legal force must be implemented as a consequence of the judicial authority granted by the state (M. Yahya Harahap, 2016). Thus, not implementing the pretrial decision means eliminating the basic function of the decision itself.

Furthermore, from the perspective of a state based on the rule of law, ignoring pretrial decisions constitutes a violation of the principle of the supremacy of law. In a state based on the rule of law, all parties, including the government and law enforcement officials, are required to comply with the law and court decisions. According to Jimly Asshiddiqie, one of the main characteristics of a state based on the rule of law is the obligation to implement court decisions as a form of respect for law and justice (Jimly Asshiddiqie, 2010). Therefore, the failure to implement the pretrial decision reflects a weakening of the principle of the rule of law.

Furthermore, from a human rights perspective, the failure to enforce a pretrial decision can be categorized as a violation of individual rights, particularly the right to ownership and the right to legal protection. If a confiscation has been declared invalid by the court, the confiscated property must be legally returned to the rightful party. However, if this return is not made, the state will still unlawfully retain control of a person's property. This contradicts the principle of legal protection as stated by Philipus M. Hadjon, who states that legal protection must guarantee the rights of citizens against arbitrary government actions (1987).

Furthermore, failure to enforce a pretrial decision also has the potential to result in further legal consequences in the form of legal liability for the party failing to comply. In this case, ignoring a court decision can be classified as an unlawful act (*onrechtmatige daad*), which opens the door for the injured party to file a civil lawsuit for compensation. Furthermore, in the context of state administrative law, such actions can also be categorized as maladministration, which can be reported to a supervisory body such as the Ombudsman.

Furthermore, from a legal effectiveness perspective, the failure to enforce pretrial decisions indicates weaknesses in the law enforcement system, particularly in the implementation of decisions. According to Soerjono Soekanto, legal effectiveness is greatly influenced by factors related to law enforcement officials, including the level of compliance and legal awareness in implementing applicable provisions (Soerjono Soekanto, 2008). If authorities fail to comply with court decisions, the law will not be enforced effectively and will lose its authority in the eyes of the public. Therefore, the legal consequences of not enforcing pretrial decisions not only impact the parties involved but also systematically impact public trust in the law and judicial institutions. This situation demonstrates that although pretrial proceedings are normatively designed as an instrument of legal protection, without an effective enforcement mechanism and compliance from authorities, these objectives cannot be optimally achieved.

Furthermore, the legal consequences of non-enforcement of pretrial decisions can also be analyzed from the perspective of state responsibility, particularly in relation to the state's obligation to ensure effective legal protection for citizens. In modern legal doctrine, the state

is not only obligated to establish legal norms but also to ensure that these norms are effectively implemented. If court decisions are not implemented by state officials, this can be categorized as a failure of the state to fulfill its obligation to provide effective legal protection (Rhona KM Smith, 2008).

Furthermore, in the context of criminal procedure, the failure to enforce a pretrial decision also has implications for the legitimacy of the judicial process itself. Court decisions are a manifestation of the judicial authority granted by the state, so ignoring them indirectly diminishes the authority of the judicial institution. In rule of law theory, the existence of an independent judiciary must be accompanied by compliance with its decisions. Without such compliance, the judicial system becomes merely symbolic and loses its substantive function (Jimly Asshiddiqie, 2010).

On the other hand, these legal consequences can also be viewed from the perspective of justice theory, particularly procedural justice. Pretrial proceedings, as a control mechanism, are designed to ensure that every action by law enforcement officers is carried out in accordance with legal procedures. However, if the pretrial decision is not implemented, the procedural justice established through the judicial process becomes meaningless. This demonstrates that justice is determined not only by the process but also by the implementation of its results (Tom R. Tyler, 2010).

Furthermore, failure to enforce a pretrial decision also has the potential to cause a deterrence failure in the legal system. In law enforcement theory, the existence of sanctions and the implementation of decisions serve a preventive function to prevent future violations of the law. However, if a court decision is not enforced, there is no deterrent effect for the perpetrators, potentially leading to a repetition of similar actions in the future (Andi Hamzah, 2007).

Furthermore, from the perspective of state administrative law, ignoring a pretrial ruling can be classified as a form of unlawful administrative action, namely an administrative action that is contrary to the law. In this case, a government agency that fails to implement a court decision can be considered to have violated the general principles of good governance (AUPB), particularly the principles of legal certainty and due diligence. Violations of these principles not only give rise to legal liability but can also result in administrative sanctions against the officials concerned (Ridwan HR, 2014).

Furthermore, another equally important legal consequence is the erosion of public trust in the legal system and law enforcement officials. In the sociology of law, public trust is a key factor in determining legal effectiveness. If the public perceives that court decisions are not being enforced, this can undermine trust in the law and foster skepticism toward the judicial process (Soerjono Soekanto, 1987).

More broadly, this situation also has the potential to undermine the principle of access to justice, namely the right of every person to obtain justice through effective legal mechanisms.

Unenforceable pretrial decisions demonstrate that access to justice is hampered not only during the process but also during the implementation stage. This indicates that the legal system is not yet fully capable of providing comprehensive protection for the public (Mauro Cappelletti C Bryant Garth, 1978).

Thus, the legal consequences of not enforcing a pretrial decision are not only individual for the injured party, but also have systemic impacts on legal legitimacy, the effectiveness of law enforcement, and public trust in the judicial system. Therefore, steps are needed that are not only normative, but also structural and cultural to ensure that every court decision is truly enforced and delivers real justice.

4. Conclusion

The provisions for the return of confiscated objects in Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHP) essentially provide a legal basis through Article 133, which requires confiscated objects to be returned to the rightful party if they are no longer needed for evidence. This provision reflects the protection of property rights and legal certainty in the criminal justice process. The implementation of the return of confiscated objects based on pretrial decisions still faces normative, structural, and cultural obstacles. Normatively, the KUHP does not yet regulate the mechanism for executing pretrial decisions explicitly. Structurally, there is a conflict of authority between criminal procedure law and customs administration law, particularly in cases involving Customs and Excise. Culturally, low compliance by officials with court decisions and the absence of firm sanctions weaken the effectiveness of decision implementation. Failure to implement pretrial decisions has legal consequences in the form of violations of the principles of the supremacy of law, property rights, and legal protection, and can give rise to liability in the form of unlawful acts or maladministration. The solutions needed include reformulating the Criminal Procedure Code by regulating the mechanism for executing pretrial decisions, strengthening the role of prosecutors as executors, imposing sanctions on parties who do not implement decisions, and improving coordination between law enforcement agencies.

5. References

Journals:

- Andi Hamzah, *Penegakan Hukum Pidana*, Jakarta: Rineka Cipta, 2007, hlm. 45.
- Eddy O.S. Hiarij, "Asas Legalitas dan Penegakan Hukum Pidana", *Jurnal Hukum Ius Quia Iustum*, Vol. 18 No. 1, 2011.
- _____, "Penyitaan dan Permasalahannya dalam Hukum Acara Pidana", *Jurnal Hukum & Pembangunan*, Vol. 49 No. 2, 2019.
- Erwin Susilo, dkk., "Problematisa Pengembalian Barang Bukti dalam Sistem Peradilan Pidana", *Jurnal Hukum Lex Generalis*, Vol. 6 No. 7, 2025.
- Mauro Cappelletti C Bryant Garth, *Access to Justice*, Oxford: Oxford University Press, 1978, hlm. 9.
- Meki Wahyudi, *Reformulasi Objek Praperadilan*, Pekanbaru: UIR, 2021.
- Ovaldo Sepang, "Perluasan Objek Praperadilan...", *Lex Administratum*, 2018.

Books:

- Andi Hamzah. (2012). *Hukum Acara Pidana Indonesia*, Jakarta: Sinar Grafika.
- Herbert L. Packer, *The Limits of the Criminal Sanction*, Stanford: Stanford University Press, 1968.
- Jekson Sipayung. (2016). *Analisis Putusan Praperadilan*, Medan: UMA.
- Jimly Asshiddiqie. (2010). *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta: Sinar Grafika.
- Jimly Asshiddiqie. (2010). *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta: Sinar Grafika.
- Lilik Mulyadi. (2012). *Hukum Acara Pidana Indonesia*, Bandung: Citra Aditya Bakti.
- Lilik Mulyadi. (2012). *Hukum Acara Pidana Indonesia: Normatif, Teoritis, Praktik dan Permasalahannya*, Bandung: Citra Aditya Bakti.
- M. Yahya Harahap. (2016). *Pembahasan Permasalahan dan Penerapan KUHAP*, Jakarta: Sinar Grafika.
- Philipus M. Hadjon., et al. (2010). *Hukum Administrasi dan Good Governance*, Jakarta: Universitas Trisakti,
- Philipus M. Hadjon. (2005). *Pengantar Hukum Administrasi Indonesia*, Yogyakarta: Gadjah Mada University Press.
- Philipus M. Hadjon. (1987). *Perlindungan Hukum bagi Rakyat Indonesia*, Surabaya: Bina Ilmu.
- Rhona K.M. Smith. (2008). *Hukum Hak Asasi Manusia*, Yogyakarta: PUSHAM UII,
- Rian Azismi. (2019). *Analisis Terhadap Perluasan Objek Praperadilan dan Prospeknya*, Yogyakarta: UIN Sunan Kalijaga.
- Romli Atmasasmita. (2011). *Sistem Peradilan Pidana Kontemporer*, Jakarta: Kencana,
- Romli Atmasasmita. (2011). *Sistem Peradilan Pidana Kontemporer*, Jakarta: Kencana.
- Satjipto Rahardjo. (2009). *Hukum Progresif*, Jakarta: Kompas.
- Soerjono Soekanto. (2008). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: Raja Grafindo Persada.
- _____, (1982). *Kesadaran Hukum dan Kepatuhan Hukum*, Jakarta: Rajawali,
- _____, (2012). *Penelitian Hukum Normatif*, Jakarta: Rajawali Pers.
- Sudikno Mertokusumo. (2009). *Penemuan Hukum*, Yogyakarta: Liberty.
- Sudikno Mertokusumo. (2009). *Penemuan Hukum*, Yogyakarta: Liberty.
- Tom R. Tyler. (2006). *Why People Obey the Law*, Princeton: Princeton University Press.

Regulation:

- Republic of Indonesia, Criminal Procedure Code (KUHP), Law No. 20 of 2025, Article 1, number 2
- Republic of Indonesia, Criminal Procedure Code, Article 133.