

Dual Interpretations of State Financial Loss Audit Authority between the Constitutional Court and the Prosecutor's Office in Corruption Law Enforcement

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ABSTRACT

This study examines the dualism of the interpretation of the authority of state loss audits between the Constitutional Court and the Prosecutor's Office in the enforcement of corruption crimes. The main problem lies in the difference in the meaning of the authority of institutions that have the right to calculate, determine, and prove state losses as an element of corruption. The research aims to analyze the construction of dualism of interpretation, explain its impact on the fragmentation of legal certainty, and formulate a model for harmonization of audit authority in accordance with the principles of constitutional supremacy and the effectiveness of corruption eradication. The method used is normative legal research with legislative, conceptual, case, historical, and comparative approaches. The results of the study show that the Constitutional Court places the Financial Audit Board as the holder of constitutional authority in determining state losses, while the Prosecutor's Office uses a functional approach that allows the use of BPKP and APIP audits in the evidentiary process. These differences in interpretation cause inconsistency in evidentiary standards, the position of audit evidence, and legal certainty in corruption cases. This study offers a Harmonization Model for the Constitutional Interpretation of State Loss Audit Authority that distinguishes the functions of identifying, calculating, determining, and proving state losses proportionately. This model places the BPK as the holder of constitutional legitimacy, the BPKP/APIP as the investigative auditor, the Prosecutor's Office as the controller of criminal evidence, and the judge as the final examiner of all evidence.

Keywords: Dual Interpretations, State Losses, Financial Audit Agency, Prosecutor's Office, Constitutional Court.

Article History: Received: August 7, 2026 | Accepted: September 20, 2026 | Published: October 20, 2026

How to Cite:

Amirullah, Foenale, Y. O., & Rahayu, S. (2026). Dual Interpretations of State Financial Loss Audit Authority between the Constitutional Court and the Prosecutor's Office in Corruption Law Enforcement. *Iuris Notitia: Jurnal Ilmu Hukum*, 4(2), 281–296. DOI: <https://doi.org/10.69916/iuris.v4i2.629>

1. INTRODUCTION

The eradication of corruption is not solely contingent upon establishing the existence of an unlawful act, but also upon the State's ability to lawfully, objectively, and consistently demonstrate the occurrence of state financial losses. In this context, state financial loss audits occupy a pivotal position, as they serve to bridge the constitutional authority for public financial oversight with the evidentiary requirements for proving the constituent elements of corruption offences (Boboy et al., 2021).

From a constitutional perspective, the Audit Board of Indonesia (BPK) is established as an independent and autonomous state audit institution, while the Office of the Attorney General exercises prosecutorial functions as well as limited investigative powers as prescribed by law. The legal issue arises when audit findings issued by the Financial and Development Supervisory Agency (BPKP), inspectorates, or other governmental oversight bodies are relied upon in criminal proceedings without a coherent legal framework governing their institutional relationship with the BPK. Contemporary scholarship has consequently raised fundamental questions concerning which institution possesses the legal authority to determine, quantify, and substantiate state financial losses in corruption cases (Sukur & Firmansyah, 2025).

Through its constitutional jurisprudence, the Constitutional Court of Indonesia has developed a specific interpretative framework concerning the authority to determine and quantify state financial losses. However, this constitutional interpretation has elicited a divergent legal response from the Office of the Attorney General, giving rise to differing institutional understandings regarding the scope of authority in the assessment of state financial losses. Through Circular Letter of the Deputy Attorney General for Special Crimes No. B-1391/F/Fjp/04/2026 concerning the Interpretation of Constitutional Court Decision No. 28/PUU-XXIV/2026, the Office of the Attorney General affirmed that the decision does not alter the substantive legal norms embodied in Articles 2 and 3 of the Anti-Corruption Law. Accordingly, the Office maintained that the Constitutional Court's ruling should not be construed as limiting the authority of investigators and public prosecutors to establish and prove state financial losses in corruption prosecutions.

Based on this interpretative framework, the quantification of state financial losses may continue to be undertaken by the Financial and Development Supervisory Agency (BPKP), the Government Internal Supervisory Apparatus (APIP), inspectorates, or duly appointed public accountants, with reference to Constitutional Court Decision No. 31/PUU-X/2012. Consequently, the Office of the Attorney General has maintained a functional approach to the evidentiary process in corruption cases, whereby audit reports issued by multiple institutions may be relied upon as supporting evidence for establishing the element of state financial losses (Hudi & Agustina, 2025).

This divergence in interpretation gives rise to a significant legal issue. On the one hand, the Constitutional Court recognizes the Audit Board of Indonesia (BPK) as the institution vested with constitutional legitimacy to determine state financial losses. On the other hand, the Office of the Attorney General maintains that the authority to quantify state financial losses is not exclusively vested in the BPK and may also be exercised by other audit institutions where necessary to support the evidentiary process in corruption prosecutions. This divergence reflects a broader tension between a constitutional approach, which emphasizes the supremacy of the 1945 Constitution as the primary source of institutional authority, and a pragmatic law enforcement approach, which prioritizes the effective prosecution and eradication of corruption (Budiman & Amyar, 2021).

The issuance of Circular Letter No. B-1391/F/Fjp/04/2026 by the Office of the Attorney General has generated considerable debate regarding the legal status of circular letters within Indonesia's hierarchy of laws and regulations. As an instrument of internal administrative policy, a circular letter, in principle, cannot override a decision of the Constitutional Court, whose rulings are final and universally binding (*erga omnes*). Accordingly, where the substantive content of such a circular letter advances an interpretation that diverges from the Constitutional Court's decision, fundamental questions arise concerning the consistent application of the principles of constitutional supremacy, legal certainty, and *lex superior derogat legi inferiori* within the Indonesian legal system (Kamil, 2025).

This issue extends beyond the technical dimensions of state financial audits or examinations and constitutes a constitutional question concerning the limits of institutional authority and the allocation of powers among state institutions within Indonesia's constitutional framework. On the one hand, the Office of the Attorney General requires the support of investigative audits as an evidentiary instrument to quantify state financial losses and to strengthen the evidentiary basis of criminal charges in corruption prosecutions. On the other hand, reliance on audit reports produced by institutions other than the Audit Board of Indonesia (BPK) may give rise to legal controversy if such practice is perceived as circumventing the BPK's constitutional mandate as the institution vested with constitutional authority to audit the management of, and accountability for, state finances (Kapitan et al., 2023).

Pradnyana and Parsa argue that the institutional dualism in the authority to determine and quantify state financial losses gives rise to overlapping institutional competencies, divergent audit methodologies, and inconsistencies in audit findings, all of which undermine institutional credibility and the consistency of law enforcement. Although their study makes a significant contribution to mapping the normative allocation of authority between the Audit Board of Indonesia (BPK) and the Financial and Development Supervisory Agency (BPKP), it does not comprehensively examine the constitutional interpretative conflict that has emerged between the Constitutional Court and the Office of the Attorney General concerning the legitimacy and constitutional limits of authority in determining state financial losses (Pradnyana & Parsa, 2021).

Subsequent scholarship has expanded the discourse from institutional design to the adjudicative dimension

by examining the evidentiary status of audit findings in corruption proceedings. Irawan and Khodijah contend that the Financial and Development Supervisory Agency (BPKP) is authorized to quantify state financial losses through investigative audits, and that the resulting audit reports possess evidentiary value, enabling them to be admitted as documentary evidence or expert testimony in judicial proceedings. Nevertheless, this line of reasoning reflects a different constitutional paradigm from studies maintaining that the authority to definitively determine state financial losses is constitutionally vested exclusively in the Audit Board of Indonesia (BPK), as the state institution endowed with constitutionally attributed authority under the prevailing constitutional and statutory framework (Irawan & Khodijah, 2021).

The normative gap, and consequently the principal research gap, lies in the absence of a coherent legal interpretative framework that integrates the constitutional legitimacy of audit authority, the evidentiary status of audit findings, and the prosecutorial authority of the Office of the Attorney General within the evidentiary framework of corruption prosecutions. This condition reveals a lack of coherence between a fragmented sectoral regulatory framework and an inter-institutional law enforcement practice, thereby giving rise to divergent legal interpretations, legal uncertainty, and institutional disharmony in the exercise of authority by the agencies involved in establishing state financial losses (Hamdani & Misra, 2023).

As a consequence, the terms “determining state financial losses,” “quantifying state financial losses,” and “proving state financial losses” are frequently used interchangeably, despite the fact that each carries distinct legal implications. This conceptual ambiguity creates opportunities for the application of inconsistent legal standards and enables defendants to challenge the legal validity of the audit findings underlying the prosecution’s case. Moreover, the Constitutional Court’s Decision No. 25/PUU-XIV/2016 demonstrates that changes in the constitutional interpretation of the element of state financial losses may alter the boundary between administrative misconduct and criminal liability for corruption (Zaki et al., 2022).

The state of the art of this study is situated within the evolving legal discourse that requires the evidentiary process in corruption prosecutions to remain consistent with the principles of legality, due process of law, and legal certainty. Contemporary scholarship on the audit authority of the Audit Board of Indonesia (BPK) has consistently recognized Audit Reports as legally significant evidentiary instruments. At the same time, however, the existing literature has identified disparities in audit methodologies and persistent challenges in inter-institutional coordination, both of which have affected the consistency of legal application and the effectiveness of anti-corruption law enforcement (Sukur & Firmansyah, 2025).

The development of judicial jurisprudence demonstrates that the Supreme Court has established guiding principles for the determination of state financial losses, while the Constitutional Court has articulated the constitutional meaning of the element of state financial loss and the constitutional limits of the criminalization of public policy decisions. The novelty of this study lies in the development of a harmonized model of constitutional interpretation governing the allocation of audit authority over state financial losses. Rather than focusing on identifying which institution possesses the “ultimate authority,” the proposed model reorients the analysis toward establishing a relational framework for the exercise and coordination of institutional powers.

The proposed model for harmonizing audit authority over state financial losses is structured around four interrelated dimensions: the constitutional, institutional, evidentiary, and harmonization dimensions. The constitutional dimension recognizes the 1945 Constitution of the Republic of Indonesia and the jurisprudence of the Constitutional Court as the primary normative foundation and interpretative benchmark for defining institutional authority. The institutional dimension, in turn, delineates the distinct functions and legal standing of the Audit Board of Indonesia (BPK), the Financial and Development Supervisory Agency (BPKP), and the Office of the Attorney General in accordance with their respective statutory mandates. Meanwhile, the evidentiary and harmonization dimensions establish methodological standards, institutional competencies, and the causal framework for determining state financial losses, while also providing mechanisms for inter-institutional coordination and normative convergence to prevent and resolve interpretative conflicts within the framework of legal certainty and constitutional supremacy.

Within this framework, the present study makes an academic contribution by offering a conceptual reconstruction of the interpretative conflict concerning institutional authority in the audit of state financial losses, while advancing scholarly discourse in both constitutional law and anti-corruption criminal law. From a practical perspective, the study proposes a normative framework to guide the Audit Board of Indonesia (BPK), the

Financial and Development Supervisory Agency (BPKP), the Office of the Attorney General, the judiciary, and the legislature in achieving a convergent interpretation of institutional authority. Such convergence is intended to ensure that differences in the legal regulation and exercise of institutional powers do not produce conflicting evidentiary standards or undermine legal certainty in the enforcement of corruption offences.

This study aims to examine the duality of constitutional interpretation concerning the authority to audit state financial losses as reflected in the positions of the Constitutional Court and the Office of the Attorney General, to analyze its implications for the fragmentation of legal certainty in law enforcement, and to formulate a harmonized model of constitutional interpretation governing audit authority based on the principle of constitutional supremacy in order to promote consistency and legal certainty within the Indonesian legal system.

2. RESEARCH METHODS

This study employs a normative (doctrinal) legal research approach because its primary object of inquiry is the interpretative conflict concerning institutional authority between the Constitutional Court and the Office of the Attorney General in determining state financial losses. Accordingly, the analysis focuses on legal norms, constitutional principles, legal doctrines, and judicial decisions, rather than on the empirical observation or measurement of social behaviour (Marzuki, 2021). The study adopts multiple legal research approaches, including the statute approach to examine the consistency of the hierarchy of laws and regulations; the conceptual approach to analyze the concepts of constitutional authority, actual loss, legal certainty, and evidentiary standards; the case approach to examine Constitutional Court decisions, the Circular Letter of the Office of the Attorney General, and judicial decisions in corruption cases; as well as the historical approach and comparative approach to trace the evolution of legal interpretation from formal offences to material offences and to compare the competing institutional arguments concerning the authority to determine state financial losses.

The legal materials employed in this study consist of primary, secondary, and tertiary legal sources. The primary legal sources include the 1945 Constitution of the Republic of Indonesia, the Anti-Corruption Law, the Law on the Audit Board of Indonesia (BPK), the Law on the Office of the Attorney General, the State Treasury Law, the 2023 Indonesian Criminal Code, Constitutional Court Decision No. 25/PUU-XIV/2016, Constitutional Court Decision No. 31/PUU-X/2012, the Circular Letter of the Office of the Attorney General No. B-1391/F/Fjp/04/2026, and relevant judicial decisions rendered by the Corruption Court. Secondary legal sources comprise peer-reviewed scholarly journal articles, previous research, and legal doctrines addressing the institutional dualism between the Audit Board of Indonesia (BPK) and the Financial and Development Supervisory Agency (BPKP), the prosecutorial authority of the Office of the Attorney General, the legality of determining state financial losses, and the normative ambiguity arising from the Constitutional Court's decisions. Tertiary legal sources consist of legal dictionaries and legal encyclopedias, which are used solely to clarify technical terminology and ensure conceptual consistency throughout the analysis.

The legal sources were collected through library research and documentary analysis by means of a systematic inventory of legislation, judicial decisions, and scholarly literature relevant to the interpretative dispute concerning state financial losses. The data collection process commenced with the identification of statutory provisions governing the attribution of institutional authority, followed by the classification of Constitutional Court decisions, Supreme Court decisions, the Circular Letter of the Office of the Attorney General No. B-1391/F/Fjp/04/2026, and relevant corruption court decisions to map the patterns of divergence between constitutional interpretation and law enforcement practice. The principal research instruments consisted of a normative inventory matrix, a comparative case-law matrix, and an issue-categorization framework designed to distinguish clearly among the legal acts of determining, quantifying, and proving state financial losses. This analytical framework enabled each legal source to be examined according to its distinct juridical function, rather than merely on the basis of the institution from which it originated.

The legal sources were analyzed using a qualitative-descriptive and prescriptive legal analysis, employing systematic, teleological, and conceptual methods of legal interpretation. These interpretative approaches were integrated with deductive legal reasoning to derive conclusions from general legal norms and constitutional principles to the specific issue of institutional authority involving the Constitutional Court, the Audit Board of Indonesia (BPK), the Financial and Development Supervisory Agency (BPKP), and the Office of the Attorney

General. Operationally, the analysis was conducted in four sequential stages: (i) interpreting the relevant legal norms and judicial decisions; (ii) examining the vertical and horizontal consistency of the applicable legal framework; (iii) comparing the Constitutional Court's legal reasoning with the prosecutorial practice of the Office of the Attorney General and its reliance on audit findings issued by institutions other than the BPK; and (iv) formulating a normative framework that best ensures legal certainty, constitutional supremacy, and the effective evidentiary process in corruption prosecutions.

3. RESULTS AND DISCUSSION

3.1. Dualism in the Interpretation of Audit Authority over State Financial Losses between the Constitutional Court and the Office of the Attorney General

The duality of interpretation concerning the audit of state financial losses does not arise from the absence of a competent audit institution, but rather from divergent understandings of the relationship between the constitutional authority of the Audit Board of Indonesia (BPK), the supervisory functions of the Financial and Development Supervisory Agency (BPKP) and the Government Internal Supervisory Apparatus (APIP), and the investigative authority of the Office of the Attorney General. The Constitutional Court has consistently maintained that state financial loss, as a constituent element of the offence, must be established on the basis of actual, definite, and measurable loss. In contrast, the Office of the Attorney General has, in practice, frequently relied on investigative audits conducted by the BPKP, inspectorates, or internal calculations to facilitate the expeditious enforcement of anti-corruption laws. This divergence gives rise to a fundamental normative question as to whether the authority to quantify state financial losses also encompasses the legal authority to determine them with binding juridical effect (Suta et al., 2021).

The constitutional interpretation of audit authority over state financial losses must be grounded in Article 23E(1) of the 1945 Constitution of the Republic of Indonesia, which expressly attributes to the Audit Board of Indonesia (BPK) the authority to audit the management of, and accountability for, state finances. This authority constitutes an original constitutional attribution of power and therefore does not derive from statutory delegation or administrative transfer by executive organs. From a normative perspective, contemporary legal scholarship consistently maintains that the authority to assess and definitively determine state financial losses falls within the constitutionally attributed competence of the BPK, a position that is further reinforced by Law No. 15 of 2006 on the Audit Board of Indonesia (Muntazar et al., 2026).

The constitutional attribution of the BPK's authority is further reinforced by Law No. 15 of 2006, which designates the Audit Board of Indonesia (BPK) as the state institution authorized to audit the management of, and accountability for, state finances. From a normative perspective, this statutory framework reflects a constitutional design that distinguishes the BPK's function as the external state auditor from the internal supervisory functions performed by the Financial and Development Supervisory Agency (BPKP) and the Government Internal Supervisory Apparatus (APIP) within the executive branch. This institutional distinction carries significant legal implications, as it determines the legitimacy of institutional authority, legal standing, and the evidentiary weight of the audit findings produced by each institution (Boboy et al., 2021).

Through Decision No. 31/PUU-X/2012 and Decision No. 25/PUU-XIV/2016, the Constitutional Court affirmed that state financial loss constitutes a constituent element of corruption offences that must be established on the basis of actual, definite, and measurable loss. In Decision No. 25/PUU-XIV/2016, the Court invalidated the phrase "may" contained in Article 2(1) and Article 3 of the Anti-Corruption Law, thereby shifting the legal paradigm of state financial loss from the concept of potential loss to actual loss that has demonstrably occurred. This normative construction reflects the Court's orientation toward strengthening legal certainty, safeguarding constitutional rights through the application of the principle of due process of law, and preventing the criminalization of public policies or administrative actions that have not factually resulted in concrete state financial losses (Hardi, 2022).

The *ratio decidendi* of the Constitutional Court remains subject to critical examination because, although it emphasizes the necessity of proving actual state financial losses (actual loss), the Court has not yet established a clear conceptual distinction regarding the juridical differences between the acts of calculating, determining, and establishing state financial losses. These three terminologies carry distinct legal implications within the evidentiary framework of corruption offences; however, in law enforcement practice, they are frequently used

interchangeably without clear normative parameters. This condition indicates that the Court's decisions have not fully resolved the institutional authority dilemma concerning which entities possess the competence to calculate state financial losses and which authorities hold the legal legitimacy to establish such losses as legally recognized facts in criminal proceedings (Rustam et al., 2026).

The fundamental weakness within the *ratio decidendi* of the Constitutional Court lies in the absence of clear normative parameters governing the relationship between the audit function and the evidentiary function in corruption proceedings. Although the Court has affirmed that state financial losses must constitute actual losses (actual loss), its decisions have not yet provided sufficient juridical guidance regarding the mechanisms for verifying and validating such losses during the investigation and prosecution stages. This omission is significant because state financial loss is not merely an accounting fact, but also a constituent element of the offence that determines criminal liability. The lack of clarity concerning the source of auditors' authority, the methodology for calculating state financial losses, and the legal status of audit findings as evidentiary instruments creates divergent interpretative possibilities and potentially contributes to disparities in law enforcement practices (Rustam et al., 2026).

Through a series of decisions, the Constitutional Court (MK) has consistently affirmed the central position of the Audit Board of Indonesia (BPK) as an institution possessing constitutional legitimacy in the examination of state finances. From the juridical perspective developed by the MK, the determination of state financial losses constitutes a legal act that generates consequences within the domain of public law. Accordingly, its exercise must be situated within a normative framework that is consistent with the constitutional design governing the administration, oversight, and accountability of state finances (Dirkareshza et al., 2025).

Such authority, from a constitutional perspective, cannot be transferred or entirely assumed by law enforcement institutions, as the Constitutional Court seeks to preserve a balance between the state financial audit function and the law enforcement function in order to prevent the excessive concentration of authority within a single institution. This normative approach reflects the application of the principle of checks and balances within Indonesia's constitutional system, serving as an inter-institutional control mechanism to ensure accountability and legal certainty (Najib et al., 2026a). Constitutional supremacy requires two concurrent commitments: respect for the constitutionally attributed authority of the BPK and rejection of the notion that audit reports, including BPK Audit Reports (LHP), possess an absolute determinative effect before the courts.

Contrary to the constitutional framework developed by the Constitutional Court, the Office of the Attorney General adopts a functional approach in interpreting audits of state financial losses by treating audit findings issued by the BPKP, APIP, and other competent auditors as evidentiary instruments for establishing the element of state financial loss in corruption cases. This approach is grounded in considerations of law enforcement effectiveness, particularly the need to expedite case resolution and address the limitations of the BPK's audit capacity. From the perspective of the Office of the Attorney General, the legally relevant consideration is not solely the legal standing of the auditing institution, but also the methodological validity, objectivity, and evidentiary strength of audit findings, which must be capable of rational examination and legal accountability within judicial proceedings (Kurniawan & Fahmiron, 2024).

Although the Attorney General's argument possesses pragmatic relevance in supporting the effectiveness of corruption eradication efforts, such construction continues to raise fundamental legal issues from the perspective of the theory of authority. The technical capacity of auditors to calculate state financial losses does not automatically confer legal authority to determine the existence of state financial losses as an element of a corruption offence. In a state governed by the rule of law, professional competence and public authority constitute distinct normative regimes, as public authority may only derive from constitutional legitimacy and statutory provisions. Accordingly, conflating these two concepts may blur the boundary between the audit function and the law enforcement function and potentially generate legal uncertainty in the exercise of state authority (Boboy et al., 2021).

From the perspective of the principle of legality, every state action and policy must be grounded in authority conferred by laws and regulations. Therefore, the use of audit findings other than those issued by the Audit Board of Indonesia (BPK) as the primary basis for determining state financial losses may raise legal concerns where such reliance is not supported by clear institutional legitimacy. Accordingly, the pursuit of effective corruption eradication cannot serve as a justification for disregarding the boundaries of authority established

by the Constitution and statutory regulations. The concept of a state governed by the rule of law requires convergence between effective law enforcement and respect for the principle of legality as the foundation for the exercise of state power (Adhi, 2025).

The duality of interpretation between the Constitutional Court and prosecutorial practice concerning the determination of state financial losses reflects a normative conflict within the Indonesian legal system. From a constitutional perspective, Article 23E of the 1945 Constitution of the Republic of Indonesia, together with its implementing regulations, attributes the authority to audit the management of and accountability for state finances to the BPK as the state's external auditor. However, in the practice of corruption law enforcement, audit findings issued by the BPKP and APIP are also relied upon as a basis for establishing state financial losses. The disparity between the constitutional normative framework, statutory regulation, and law enforcement implementation generates regulatory disharmony, which in turn contributes to the emergence of dual interpretations concerning the authority to audit and determine state financial losses (Atmaja et al., 2023).

Based on the principle of *lex superior derogat legi inferiori*, any conflict of norms must be resolved by prioritizing provisions derived from the 1945 Constitution of the Republic of Indonesia as the supreme legal norm. Within this context, the authority of the Audit Board of Indonesia (BPK) to determine state financial losses possesses constitutional legitimacy under Article 23E of the 1945 Constitution and therefore cannot be equated with the authority of other institutions through regulatory interpretation. Accordingly, audit findings issued by the Financial and Development Supervisory Agency (BPKP) do not constitute a substitute for the BPK's constitutional authority, but rather serve as supporting instruments that may contribute to the investigation and evidentiary process in corruption proceedings (Pradnyana & Parsa, 2021).

The application of the principle of *lex specialis derogat legi generali* affirms that the provisions governing state financial audits under the 1945 Constitution of the Republic of Indonesia and the Law on the Audit Board of Indonesia constitute a special legal regime that specifically and restrictively regulates audit authority and the determination of state financial losses, whereas criminal procedural provisions concerning evidentiary instruments and expert testimony operate as general legal norms. Accordingly, where normative disharmony arises between the criminal evidentiary regime and the regulatory framework governing state financial audits, the special legal regime must prevail in its application. Consequently, the BPK's constitutional authority to examine and determine state financial losses possesses stronger juridical legitimacy and cannot be disregarded solely on the basis of evidentiary requirements within criminal proceedings (Adhi, 2025).

From the perspective of the theory of authority, the duality of interpretation concerning audits of state financial losses reflects the absence of a clear distinction between powers derived through constitutional attribution, delegation, and mandate within the Indonesian legal system. Constitutionally, the authority of the BPK constitutes an attributed authority directly derived from the 1945 Constitution of the Republic of Indonesia, whereas the BPKP exercises administrative authority within the framework of internal government supervision. Meanwhile, the authority of the Office of the Attorney General to investigate and prosecute corruption offences derives from statutory attribution. The use of BPKP audit findings as a basis for determining state financial losses without a clear verification mechanism potentially constitutes an expansion of institutional functions beyond the limits of lawful authority. Such expansion not only generates legal uncertainty but also has implications for the disruption of the principle of checks and balances within the constitutional system (Suta et al., 2021).

The duality of interpretation concerning audit authority over state financial losses reflects a paradigmatic divergence between the Constitutional Court's constitutional approach, which positions institutional legitimacy as a prerequisite for the exercise of state power, and the Attorney General's functional approach, which emphasizes evidentiary effectiveness in combating corruption. Although both approaches possess their respective juridical rationales, their application requires normative harmonization through a clear distinction among the functions of identifying, calculating, and determining state financial losses. Within this framework, the BPK retains constitutional legal standing to determine state financial losses, while the BPKP and APIP function as investigative auditors that support the investigation and evidentiary process without encroaching upon the BPK's constitutionally mandated authority (Seleky et al., 2022).

The Office of the Attorney General has developed a more pragmatic interpretation oriented toward the effectiveness of corruption eradication. From the perspective of the Office of the Attorney General, the element

of state financial loss in corruption offences constitutes a legal fact that must be established through criminal proceedings. Therefore, evidentiary materials concerning state financial losses are not necessarily required to originate exclusively from the BPK (Padol & Salman, 2024). Investigators and public prosecutors may rely on audit findings issued by the BPKP, independent auditors, or expert testimony, provided that such evidence can be scientifically justified and accepted by the court during trial proceedings. This interpretation is grounded in the principle of freedom of proof within criminal procedural law, which does not restrict the sources of evidence exclusively to a single institution (Pradana et al., 2019).

Such practice may be justified as a means of gathering preliminary indications and providing technical support; however, it becomes problematic when such reports are directly treated as final determinations without prior examination of institutional authority, audit methodology, and the causal relationship between the alleged conduct and the state financial loss (Irawan & Khodijah, 2021). It is at this point that the Attorney General's interpretation diverges from the constitutional interpretation emphasizing the differentiation of institutional functions. Several studies argue that the BPKP possesses the authority to calculate state financial losses through investigative audits, and that the resulting audit findings may be presented as documentary evidence or expert testimony in judicial proceedings (Kartika et al., 2024).

Functionally, the involvement of auditors in the investigation process constitutes an indispensable requirement for supporting the evidentiary process in criminal proceedings, particularly because criminal procedural law does not restrict expert testimony exclusively to auditors from the BPK. Nevertheless, the capacity of auditors to provide technical opinions or assessments cannot be equated with juridical authority to determine the existence of state financial losses, as these two functions derive from different sources of authority. The conflation between technical expertise and the authority to determine state financial losses potentially results in an overextension of attributed powers, whereby the Office of the Attorney General risks transforming evidentiary needs in law enforcement processes into audit authority that is not normatively conferred by statutory provisions (Putra & Sugimin, 2024).

From the perspective of legal reasoning, the appropriate solution is not to exclude audits conducted by institutions other than the BPK, but rather to position such audits within a structured allocation of authority that is measurable and consistent with the applicable normative framework. In this context, the BPKP and APIP perform functions in identifying potentially problematic transactions, conducting preliminary calculations of state financial losses, securing supporting documents, and providing expert testimony concerning audit methodologies. Such audit findings may be utilized by the Office of the Attorney General as an initial basis for commencing corruption investigations (Doda et al., 2023).

Where the amount of state financial loss is incorporated as a determinative element in an indictment, juridical verification is required to enable the court to examine the legality of the auditor's authority, the audit standards applied, the validity of the comparative data used, and the causal relationship between the alleged conduct and the resulting loss. From the perspective of criminal procedural law, investigative audit findings do not automatically possess evidentiary value; rather, they must first satisfy the requirements of relevance, competence, validity, and procedural admissibility as regulated under the Indonesian Criminal Procedure Code (KUHAP) in order to be recognized as legally admissible evidence (Maryani & Sastradipraja, 2022).

The interpretative conflict is reflected in the interchangeable use of the terms "determining," "calculating," and "proving" state financial losses. "Calculating" refers to the technical process of quantifying financial losses; "determining" denotes the act of formulating an institutional conclusion regarding the existence and amount of such losses; whereas "proving" constitutes the function of the parties and the court within judicial proceedings. When the calculation of losses conducted by the BPKP or APIP is treated as a final determination, the boundary between internal supervision and external auditing becomes blurred. This institutional dualism subsequently generates variations in calculation methods, discrepancies in the assessed amount of state financial losses, and inconsistent evidentiary standards (Pradnyana & Parsa, 2021).

This duality of interpretation generates serious implications for legal certainty. In several corruption cases, defendants frequently challenge the legality of audit findings relied upon by investigators when such audits are not issued by the BPK. Conversely, law enforcement authorities argue that limiting audit authority exclusively to the BPK may hinder the effectiveness of corruption eradication efforts due to the BPK's institutional capacity constraints. Consequently, disputes concerning audit authority often shift from the substantive issues of

corruption offences toward contestations regarding the validity of evidentiary materials. This condition results in inconsistencies in judicial decisions and creates opportunities for the emergence of competing legal arguments (Rahmadi et al., 2025).

This situation adversely affects not only defendants but also the quality of corruption eradication efforts, as criminal cases may collapse due to deficiencies in the legal foundation of the audit rather than because the underlying unlawful conduct has failed to be proven (Maulana, 2026). However, positioning the BPK as the sole institution authorized to produce a quantified assessment of state financial losses also raises concerns regarding law enforcement effectiveness. BPK audits require procedural compliance and sufficient time, whereas criminal investigations demand prompt responses, particularly in cases involving risks of evidence destruction or loss. Therefore, a constitutional and operationally feasible approach requires the adoption of a two-tier model (Sipayung et al., 2024).

The harmonization model of state financial loss audit authority may be constructed through a two-tier examination framework, consisting of indicative calculations conducted by the BPKP/APIP for investigative purposes and the determination or validation of state financial losses that satisfy audit standards for evidentiary purposes in judicial proceedings. This concept accommodates the practical realities of law enforcement while maintaining adherence to the principles of legality and constitutional supremacy. Furthermore, the effectiveness of this model requires formal institutional coordination and standardized procedures for requesting audits, thereby ensuring that Audit Reports possess legal legitimacy, validity, and juridical accountability capable of being upheld within judicial proceedings (Sukur & Firmansyah, 2025).

The findings of this study confirm the theoretical construction that positions the BPK as the institution possessing primary constitutional legitimacy in auditing state financial losses, while simultaneously enriching previous scholarship through a conceptual distinction among three levels of audit functions: preliminary identification, professional calculation, and determination with juridical consequences. The novelty of this research does not merely lie in affirming the superiority of the BPK's authority over the BPKP; rather, it lies in formulating a model of inter-institutional functional relations based on complementarity, thereby establishing a convergence of authority that promotes legal certainty, effective law enforcement, and consistency with constitutional principles (Muntazar et al., 2026).

Within this framework, the Office of the Attorney General remains the authority responsible for controlling the criminal evidentiary process but does not assume the function of final audit determination; the BPKP/APIP may continue to support criminal investigations but cannot equate internal audit reports with the BPK's constitutionally mandated determination; while the court remains the ultimate authority in assessing and evaluating all evidentiary materials (Irawan & Khodijah, 2021). The legal implication is the necessity of establishing a joint guideline that explicitly regulates when a calculation is considered indicative, when it qualifies as an investigative audit, and when it may serve as the basis for determining state financial losses. Such guideline should require the disclosure of the auditor's mandate, calculation methodology, data sources, underlying assumptions, potential recovery measures, and the causal relationship between the defendant's conduct and the actual loss incurred (Pradana et al., 2019).

From a legislative perspective, lawmakers need to harmonize the BPK Law, the State Treasury Law, the Anti-Corruption Law, and the institutional regulations governing the BPKP in order to eliminate overlapping concepts of authority. Accordingly, the harmonization of interpretation based on constitutional supremacy does not hinder corruption eradication efforts; rather, it ensures that the effectiveness of law enforcement is built upon legitimate authority, evidence capable of judicial examination, and legal certainty.

3.2. Interpretative Dualism and the Fragmentation of Legal Certainty in Corruption Law Enforcement

The duality of interpretation concerning audit authority does not merely constitute an institutional conflict among the BPK, BPKP, APIP, and the Office of the Attorney General. Rather, it affects legal certainty by determining which institution is authorized to produce the basis for quantifying state financial losses, how actual losses are to be proven, and the extent to which audit reports may be relied upon before the court. Constitutional Court Decision Number 25/PUU-XIV/2016 requires losses to be real and certain; however, law enforcement practices continue to rely on audit reports issued by multiple institutions. Fragmentation arises

when a single element of a criminal offence is constructed through non-uniform standards of authority and methodology (Hardi, 2022).

From the perspective of Gustav Radbruch's theory of legal certainty, law must guarantee clarity and consistency regarding the rights, obligations, and authorities of each state institution. Legal certainty is not solely determined by the existence of written norms, but also by the uniformity of their implementation in law enforcement practice. The use of BPK audit findings in one corruption case and BPKP or APIP audit findings in another case with different evidentiary weight creates juridical inconsistencies that may affect variations in judicial outcomes. This condition demonstrates that the determination of legal responsibility does not entirely rest upon the application of identical legal standards, but is also influenced by institutional choices within the evidentiary process. Such a phenomenon is inconsistent with the principle of equality before the law as one of the fundamental characteristics of the modern rule of law (Pradnyana & Parsa, 2021).

The fragmentation of legal certainty becomes increasingly evident at the investigation stage. In practice, investigators may rely on audit findings issued by various institutions to establish the existence of state financial losses. Although such an approach provides flexibility in handling corruption cases, it simultaneously creates the risk of divergent calculation methods and discrepancies in the resulting assessment of state financial losses. Each auditing institution operates under different operational standards, audit approaches, and scopes of authority (Hardi, 2022). Consequently, the same factual event may result in different assessments of state financial losses when examined by different institutions. Such discrepancies not only affect the construction of criminal charges but also influence the amount of additional criminal penalties in the form of restitution payments that may be imposed upon the defendant (Pradnyana & Parsa, 2021).

A persisting juridical issue concerns the legal status of state financial loss audit reports within the evidentiary system of corruption offences, as there remains no uniform interpretation regarding their qualification as documentary evidence, expert testimony, or a combination of both. This normative ambiguity expands the scope of judicial discretion in assessing their probative value, resulting in varying practices whereby audit reports may be treated either as primary evidence for establishing the existence of state financial losses or merely as expert opinions requiring corroboration through other forms of evidence. This condition demonstrates that the duality of interpretation concerning audit authority not only generates institutional uncertainty but also creates fragmentation in the interpretation of the legal position and evidentiary value of audit reports within corruption-related criminal proceedings (Maryani & Sastradipraja, 2022).

From the perspective of Lawrence Friedman's legal system theory, the duality of authority in calculating state financial losses reflects disharmony among the elements of legal structure, legal substance, and legal culture. Structurally, the involvement of the BPK, BPKP, APIP, and law enforcement authorities has resulted in overlapping institutional functions. From the perspective of legal substance, the existing regulatory framework has not clearly established the boundaries of authority among the respective institutions. Meanwhile, within the dimension of legal culture, law enforcement orientations that prioritize the effectiveness of case handling over the consistent application of authority principles have reinforced divergent interpretative practices. This condition prevents the legal system from operating in an integrated manner and contributes to the recurring emergence of legal uncertainty in the enforcement of corruption offences (Kurniawan & Fahmiron, 2024).

The duality of authority in state financial loss auditing not only creates institutional problems but also affects the protection of suspects' and defendants' rights within the criminal justice system. Based on the principle of due process of law, every law enforcement action must be conducted through clear and predictable procedures and carried out by institutions possessing legitimate authority under the applicable legal framework. Therefore, the use of state financial loss calculations produced by institutions whose authority remains subject to juridical debate may raise concerns regarding the validity of evidence and the legality of determining a person's status as a suspect. This issue is particularly significant because state financial loss constitutes an essential element in proving corruption offences; thus, uncertainty regarding auditor authority may diminish the legitimacy of law enforcement processes and undermine legal certainty (Maryani & Sastradipraja, 2022).

On the other hand, the duality of interpretation also contributes to disparities in judicial decisions. Judges adopting a constitutional approach tend to assign greater evidentiary weight to BPK audit findings, given that the institution derives direct legitimacy from the 1945 Constitution of the Republic of Indonesia. Conversely, judges applying a functional approach are more inclined to accept audit findings issued by the BPKP or other

auditors, provided that such findings are scientifically accountable and subject to examination during judicial proceedings. These differing approaches result in the absence of uniform evidentiary standards. Consequently, cases with similar factual characteristics may produce different judicial outcomes solely due to divergent perspectives regarding the legal status of state financial loss audits. Such a condition represents a classic indicator of the fragmentation of legal certainty (Muntazar et al., 2026).

Such inconsistency has the potential to affect the effectiveness of corruption eradication efforts. On the one hand, the use of non-BPK audit reports may accelerate the investigative process, as law enforcement authorities are not required to await BPK examinations, which often involve relatively lengthy procedures. On the other hand, such acceleration may generate new legal disputes concerning the legitimacy of the auditors involved. Consequently, the focus of judicial proceedings may shift from proving the substantive elements of corruption offences toward debates regarding the competence and authority of auditing institutions. This situation may ultimately hinder the law enforcement process and reduce the overall effectiveness of corruption eradication efforts (Assanti & Noor, 2025).

The same issue is also evident in the development of legal regulation following the enactment of Law Number 1 of 2023 concerning the Criminal Code. Although the new regulatory framework continues to maintain the concept of state financial loss as an essential element of corruption offences, the provision concerning which institution is authorized to determine state financial losses has yet to be explicitly formulated (Rahmayanti & Hasibuan, 2024). This normative gap leaves room for continued interpretation and enables the persistence of the duality of authority that has occurred thus far. In other words, regulatory reform has not fully resolved the fundamental issue concerning the relationship between constitutional audit authority and the requirements of criminal proof (Assanti & Noor, 2025).

To address such fragmentation of legal certainty, a model of authority harmonization is required that integrates the need for effective law enforcement with the principle of constitutional supremacy. Harmonization should not be understood as the elimination of the roles of BPKP or APIP in corruption cases. Rather, harmonization should be achieved through a clear differentiation of functions among the identification, calculation, and determination of state financial losses (Hardi, 2022). Under this model, BPKP and APIP may perform functions at the stage of initial identification and preliminary calculation as part of the investigative process, while BPK remains the institution possessing constitutional legitimacy for the validation or determination of state financial losses to be used as a basis for evidentiary proceedings before the court. This model enables the effectiveness of case handling to be maintained without compromising the principles of legality and legal certainty (Sukur & Firmansyah, 2025).

3.3. Constructing a Harmonization Model of State Financial Loss Audit Authority: Reconciling Constitutional Supremacy and Effective Corruption Eradication

From the perspective of the rule of law, the resolution of authority conflicts cannot be achieved by sacrificing one of the fundamental objectives of law. An approach that solely emphasizes the effectiveness of corruption eradication may undermine the principle of legality and constitutional authority. Conversely, an approach that exclusively prioritizes the formal aspects of institutional competence may impede the evidentiary process of corruption offences, which requires both efficiency and flexibility (Najib et al., 2026b). Therefore, the harmonization of state financial loss audit authority must be constructed through a model capable of balancing legal certainty, legal utility, and justice, as conceptualized by Gustav Radbruch. Harmonization should not be understood as the elimination of the authority of any particular institution; rather, it should integrate the respective functions of each institution within a complementary and coordinated system.

The fundamental principle of such harmonization must be derived from constitutional supremacy as the highest norm within the Indonesian legal system. Based on Hans Kelsen's theory of the hierarchy of norms, every exercise of public authority must obtain legitimacy from a higher legal norm. Since the authority of the BPK is directly derived from the 1945 Constitution of the Republic of Indonesia, its position cannot be equated with internal supervisory institutions whose authority is established through statutory regulations below the constitutional level. Consequently, any harmonization model must continue to position the BPK as the institution holding constitutional legitimacy in the determination of state financial losses. Nevertheless, recognition of the BPK's constitutional position does not imply the exclusion of other institutions from contributing to the evidentiary process in corruption offences (Muntazar et al., 2026).

The main problem that has occurred thus far lies in the interchangeable use of the terms “identifying,” “calculating,” “determining,” and “proving” state financial losses without a clear conceptual distinction. In fact, each term carries different legal consequences. Identification refers to the process of discovering indications of state financial losses. Calculation constitutes a technical process aimed at quantifying the amount of such losses. Determination refers to a legal act that grants formal recognition to the existence of state financial losses. Meanwhile, proof represents a judicial process through which all evidence is examined and assessed during trial proceedings. When these four functions are conflated, authority conflicts become inevitable and result in inconsistent evidentiary standards (Pradnyana & Parsa, 2021).

This research proposes a model of constitutional interpretation harmonization concerning state financial loss audit authority by establishing a clear distinction among four levels of audit functions. The model is developed based on the principle of authority differentiation, namely the separation of functions according to the respective sources of legal legitimacy of each institution. Through this model, each institution may continue to perform its role optimally without encroaching upon the authority of other institutions. Therefore, harmonization is not achieved through the consolidation of authority within a single institution, but rather through the establishment of a structured and measurable functional relationship among relevant institutions. This model simultaneously addresses the regulatory weaknesses that have historically failed to provide a clear boundary between audit functions and criminal evidentiary functions (Seleky et al., 2022).

At the first stage, BPKP and APIP are positioned as institutions authorized to conduct the identification and indicative calculation of state financial losses. Both institutions possess adequate technical resources to carry out rapid investigative audits during the preliminary phase of corruption investigations. In the practice of corruption eradication, the existence of investigative auditors is essential in assisting law enforcement authorities in identifying patterns of financial misconduct and estimating the magnitude of state financial losses. Therefore, the roles of BPKP and APIP should not be eliminated; rather, they should be proportionally positioned as part of the investigative function supporting the law enforcement process (Irawan & Khodijah, 2021).

At the second stage, the BPK performs the function of validating and determining state financial losses that carry public legal consequences. Under this framework, investigative audit results conducted by BPKP or APIP do not automatically constitute the basis for the determination of state financial losses. Instead, such audit results must undergo verification through an examination mechanism that complies with state audit standards as regulated under Law Number 15 of 2006 concerning the Audit Board of the Republic of Indonesia. This validation mechanism is necessary to ensure that state financial losses used as the basis of criminal charges possess constitutional legitimacy and satisfy the standards of objectivity and independence (Boboy et al., 2021).

At the third stage, the Prosecutor’s Office continues to exercise its investigative and prosecutorial functions based on the principle of *dominus litis*. Under this harmonization model, the Prosecutor’s Office does not lose its authority to utilize investigative audit findings as an initial basis for conducting investigations. However, when the amount of state financial losses becomes a significant element in the formulation of criminal charges, the Prosecutor’s Office is required to include validated findings or determinations that have fulfilled constitutional audit standards. In this manner, the effectiveness of investigations can be maintained without disregarding the principle of legality of authority. This approach also reduces the risk of challenges against the legality of auditors, which has frequently been employed as a defense strategy by defendants in corruption cases (Kurniawan & Fahmiron, 2024).

At the fourth stage, the judge remains the authority with the final competence to assess all evidence presented during judicial proceedings. The status of audit reports, whether issued by the BPK or other investigative auditors, must not be treated as absolute evidence. In accordance with the principles of proof under the Indonesian Criminal Procedure Code (KUHP), judges must evaluate the relevance, validity, and causal relationship between state financial losses and the defendant’s conduct. Therefore, audit reports function as evidentiary supporting instruments that remain subject to the criminal evidentiary process and do not automatically determine a person’s criminal liability (Maryani & Sastradipraja, 2022).

The implementation of this harmonization model requires legal reform at the legislative level. Currently, the regulation of state financial losses is dispersed across various legal instruments that employ different terminologies. The Audit Board Law, the State Treasury Law, the Anti-Corruption Law, and institutional regulations governing BPKP have not yet established clear boundaries regarding the functions of identifying, calculating,

and determining state financial losses. As a result, each institution develops its own interpretation concerning the scope of its respective authority. Therefore, regulatory harmonization is required through legislative revision that explicitly and consistently regulates the allocation of audit functions (Adhi, 2025).

In addition to legislative reform, the establishment of national guidelines governing procedures for auditing state financial losses in corruption cases is also required. Such guidelines should regulate coordination mechanisms among the BPK, BPKP, APIP, and law enforcement authorities. These regulations should include mechanisms for requesting audits, standards for examination methodologies, procedures for validating audit findings, and mechanisms for resolving discrepancies arising from different calculation results among institutions. The existence of national guidelines would reduce the potential for interpretative conflicts while simultaneously establishing more consistent evidentiary standards throughout Indonesia (Sukur & Firmansyah, 2025).

From the perspective of Lawrence M. Friedman's legal system theory, this harmonization model seeks to improve the three components of the legal system simultaneously. In terms of legal structure, the model clarifies the allocation of authority and institutional relationships among relevant state bodies. Regarding legal substance, the model provides clear definitions of the functions of identifying, calculating, and determining state financial losses. With respect to legal culture, the model encourages a transformation in the orientation of law enforcement authorities from a sectoral approach toward a collaborative approach based on constitutional supremacy. Therefore, harmonization does not merely resolve normative conflicts, but also strengthens the overall integration of the legal system (Flora et al., 2023).

It can be affirmed that the solution to the duality of interpretations concerning state financial loss audit authority does not lie in eliminating the role of BPKP or excessively restricting the authority of the Prosecutor's Office. A more appropriate solution is to establish a functional relationship that clearly differentiates between the processes of identifying, calculating, determining, and proving state financial losses. The novelty of this research lies in the development of a model for harmonizing the constitutional interpretation of state financial loss audit authority, which positions the BPK as the institution holding constitutional legitimacy in the determination of state financial losses, BPKP/APIP as investigative auditors at the stage of initial identification and calculation, the Prosecutor's Office as the controller of criminal evidentiary processes, and judges as the final assessors of all evidence. This model enables the achievement of a balance between constitutional supremacy, legal certainty, and the effectiveness of corruption eradication, thereby transforming the interpretative dualism that has previously generated legal fragmentation into a measurable, accountable, and justice-oriented coordination mechanism.

4. CONCLUSION

This research concludes that the dual interpretation of state financial loss audit authority originates from a fundamental paradigmatic clash between the Constitutional Court and the Prosecutor's Office. The Constitutional Court firmly positions the Audit Board of Indonesia (BPK) as the primary holder of constitutional authority to examine and determine state financial losses, grounded in the attributive power of Article 23E of the 1945 Constitution. In contrast, the Prosecutor's Office adopts a pragmatic, functional approach, permitting the use of audit findings from the BPKP, APIP, or other competent auditors to expedite the evidentiary process in corruption cases. This divergence has fragmented legal certainty, primarily due to the blurred boundaries between the acts of identifying, calculating, determining, and proving state losses. Consequently, this has led to inconsistent evidentiary standards, varying legal statuses of audit reports in court, disparities in judicial decisions, and frequent disputes regarding the legality of auditors utilized in law enforcement.

To address this, the study offers a novel harmonization model that shifts the debate from contesting institutional supremacy toward establishing complementary functional relationships based on legal legitimacy. This model clearly delineates four distinct stages: (1) identification and indicative calculation conducted by BPKP/APIP as preliminary investigative support; (2) validation and formal determination executed by the BPK to ensure constitutional legitimacy and adherence to state audit standards; (3) investigation and prosecution managed by the Prosecutor's Office under the *dominus litis* principle; and (4) final evidentiary assessment by the judiciary. This construction provides a theoretical contribution by reconstructing the relationship between audit authority and criminal proof, while practically balancing constitutional supremacy, legal certainty,

and the effectiveness of corruption eradication.

Furthermore, this research recommends that the House of Representatives (DPR) and the Government undertake comprehensive regulatory harmonization. This includes revising the Audit Board Law, State Treasury Law, Anti-Corruption Law, and BPKP institutional regulations to explicitly codify the boundaries of these four functions. Additionally, a national joint guideline must be established among the BPK, BPKP, APIP, the Prosecutor's Office, the Police, the Corruption Eradication Commission (KPK), and the Supreme Court to standardize audit coordination, examination methodologies, and validation procedures. Ultimately, non-BPK investigative audits must be positioned strictly as supporting instruments, not as substitutes for the BPK's constitutional authority. Future research should empirically evaluate this model's implementation to assess its effectiveness in reducing institutional conflicts and strengthening evidentiary quality in corruption trials.

DECLARATION

Funding

The authors received no financial support of any kind for the research, authorship, and/or publication of this article.

Conflicts of Interest

The authors declare no financial conflicts of interest or personal relationships that could influence, or appear to influence, the analysis results and legal arguments presented in this article.

Availability of Data and Legal Materials

All legal materials, court rulings, or supporting data analyzed in this research are fully included in this manuscript.

Statement on AI Usage

The authors declare that no Generative AI technology or AI assistance tools were used during the preparation, drafting, or analysis of this manuscript.

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