1st ICLESS 2022 International Conference Law, Economy, Social and Sharia
Pg. 593-603

Proceeding International Conference on Law, Economy, Social and Sharia 2022 Vol. 1
https://icless.net/ ISSN:

Emergency Arrangements In Handling The Covid-19 Pandemic In Indonesia Reviewed From Legal Guarantee Aspects

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Abstract

Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) regulates the existence of a Government Regulation in Lieu of Law (Perppu). This provision gives the president the authority to stipulate a Perppu in the event of a compelling emergency. This study reviews emergency arrangements in handling the COVID-19 pandemic in Indonesia in terms of legal certainty. The results of the study conclude that the issuance of Government Regulation in Lieu of Law Number 1 of 2020 concerning 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid- 19). Pandemic and/or In Facing Threats That Endanger the National Economy and/or Financial System Stability issued by the President is in accordance with his authority based on Article 22 paragraph (1) of the 1945 Constitution and is in accordance with the Constitutional Court Decision Number 138/PUU-VII/2009, in which the conditions as stated in the preamble and in the explanation of the Perppu are in above has fulfilled the parameters as a compelling urgency in the framework of stipulating a Government Regulation in Lieu of Law. So that the issuance of the Perppu provides a legal basis and legal certainty for the Government and related institutions in making decisions and/or taking actions in order to overcome the threat of Covid-19 in the health sector, social threats and threats to the economy and financial system stability.

Keywords: Emergency, Pandemic, Legal Certainty

I. INTRODUCTION

At the end of 2019, the world was shocked by the spread of a new deadly disease, namely Covid-19. Since it was first announced by WHO as a Health Emergency of International Concern (PHEIC),[1] and now the spread of this new deadly disease is increasingly massive and has almost hit all countries in the world. The world mourns because many countries that have been infected with this virus have experienced truly tragic deaths and the death toll is increasing from time to time.[2]

The spread of Covid-19 in all corners of the world has contributed to the collapse of various aspects of life. It is not only the economic side that is directly affected, but also our interrelation as humans. Changes in human relations and changes from the economic side are often followed by changes in the political field, including the life of the nation and state.[3]

[1] Rizki Bagus Prasetio, "Pandemi Covid-19: Perspektif Hukum Tata Negara Darurat dan Perlindungan HAM", Jurnal Ilmiah Kebijakan Hukum, Vol. 15 No. 2, Juli 2021, pg. 328.

[2] Apolinaris Snoe Tonbesi, Dampak Virus Corona Terhadap Kehidpan Perekonomian, Jakarta, MBridge Press-APPTI, 2020, pg. 201.

[3] Didik Haryadi Santoso, Covid-19 Dalam Ragam Tinjauan Perspektif, Jakarta, MBridge PressAPPTI, 2020, pg. 5.

As a new type of disease that has emerged since December 2019 from Wuhan, China, it is only natural that the Wuhan authorities carry out a lockdown (regional quarantine) so that it will not spread to other countries. In the Covid-19 pandemic situation, there are 11 countries in their constitutions that implicitly list epidemic situations, such as Macedonia, Georgia and others. The only country that mentions a pandemic situation in its constitution is Turkey.[4]

While other countries responded with health quarantine laws, including Indonesia. However, recently the effectiveness of the implementation of the Health Quarantine Act is at a testing point. This is due to the emergence of problems faced by people in Indonesia due to the Coronavirus Disease 2019 pandemic (hereinafter referred to as Covid-19), the health segment cannot stand alone without reciprocating with other segments in the concept of people's safety, which include the economic and social segments. social segment. Along with this statement, the Covid-19 pandemic in Indonesia has had a broad impact not only on the health segment but also comprehensively on other segments such as the economic segment and the social segment.[5]

Indonesia as a state of law as enshrined in the 1945 Constitution of the Republic of Indonesia in the third amendment has included "a state of law" as one of its article formulations.[6] This is stated explicitly in Article 1 paragraph (3), a term consisting of two words containing certain concepts that were previously only contained in general explanations before changes to the constitution had occurred. Such a formulation indicates the development of a determination, among others, to establish the rule of law in the life of society and the state.[7] From this regulation, it can be understood that the state, including the government and other state institutions, in carrying out any action, whether it is a responsibility or obligation, as well as rights or authorities, must refer to the applicable legal rules or in other words must be legally accounted for.[8] The same thing was conveyed by Zainal Arifin Hoesein that the administration of state government, including the administration of regional government, must be carried out with democratic principles.[9]

Since the Covid-19 case was first announced, it took at least one month until the government, in this case the president, decided to issue Presidential Decree No. 11 of 2020 concerning the Determination of a Corona Virus Disease (Keppres 11 of 2020), and use its constitutional authority based on Article 22 of the 1945 Constitution of the Republic of Indonesia to issue a Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease2019 (Covid-19) Pandemic and/or In the Context Facing Threats That Endanger the National Economy and/or Financial System Stability (Perpu 1 of 2020),[10] one month later the President issued Presidential Decree No. 12 of 2020 concerning the Designation of Non-Natural Disasters Spreading Covid-19 as National Disasters.[11]

[4] Nano Tresna Arfana, ed, "Perpu dalam Desain Hukum Tata Negara Darurat", 23 Agustus 2020. Acsessed by https://www.mkri.id/index.php?page=web.Berita&id=16513, at January 14th 2022.

[5] *Ibid.*

[6] Indonesia, Undang-Undang Dasar 1945 Pasal 1 Ayat (3) berbunyi, "Negara Indonesia adalah negara hukum".

[7] A. Muhammad Asrun, Krisis Peradilan Mahkamah Agung di Bawah Soeharto, ELSAM, Juni 2004, Cetakan Pertama, pg. 51-55.

[8] Herman Bastiaji Prayitno, "Pemakzulan Terhadap Presiden dan atau Wakil Presiden Ditinjau Dari Undang Undang Dasar Negara Republik Indonesia Tahun 1945", Jurnal Surya Kencana Satu, Dinamika Masalah Hukum dan Keadilan) Vol. 10 No. 2 Oktober 2018, pg. 104.

[9] Zainal Arifin Hoesein, "Pemilu Kepala Daerah Dalam Transisi Demokrasi" Jurnal Konstitusi, Volume 7, Nomor 6, Desember 2010, pg. 2.

[10] Wakhudin, Op. Cit, pg. 1.

[11] Rizki Bagus Prasetio, Op.Cit, pg. 328.

The various stipulations of emergency situations above cannot be separated from the various types of emergencies contained in Indonesian positive law.[12] In the 1945 Constitution of the Republic of Indonesia, provisions regarding an emergency are regulated in two articles, namely Article 12 and Article 22 paragraph (1). Article 12 of the 1945 Constitution states, "The President declares a state of danger. The conditions and consequences of the state of danger are determined by law".[13] Furthermore, Article 22 paragraph (1) of the 1945 Constitution states that, "In the event of a compelling urgency, the President has the right to stipulate government regulations in lieu of laws".[14]

Jimly Asshiddiqie asserted that the circumstances and matters of forcing urgency as referred to in Article 22 of the 1945 Constitution are not identical or not the same as the conditions of danger as referred to in Article 12 of the 1945 Constitution. The conditions of danger referred to in Article 12 of the 1945 Constitution may include: the category of circumstances or matters of coercive urgency as referred to by Article 22 of the 1945 Constitution. However, the reasons for a compelling urgency according to Article 22 of the 1945 Constitution are not always a state of danger according to Article 12 of the 1945 Constitution. Article 22 of the 1945 Constitution has a wider scope of meaning than a state of danger according to Article 12 of the 1945 Constitution.[15]

Based on the above background, it is interesting to study and review in more depth the 2 (two) things that will be studied in this paper, namely regarding (1) emergency policy in Indonesia in the perspective of emergency constitutional law. (2) the existence and enforceability of a Government Regulation in Lieu of Law issued by the President during an emergency due to the Covid-19 pandemic in terms of legal certainty.

II. LITERATURE REVIEW

State the objectives of the work and provide an adequate background, avoiding a detailed literature survey or a summary of the results. A Theory section should extend, not repeat, the background to the article already dealt with in the Introduction and lays the foundation for further work. A calculation section represents a practical development from a theoretical basis.

III. METHODOLOGY

The method used in this research is legal research. Legal research is a scientific research that studies a certain legal phenomenon by analyzing it or conducting an in-depth examination of a legal fact and then seeking a solution to the problems that arise from these symptoms. Legal research is divided into 2 (two) namely normative legal research and empirical legal research.[16] Normative legal research is research that puts the law as a building system of norms. The system of norms in question is about principles, norms, rules of laws and regulations, court decisions, agreements, and doctrines. Meanwhile, empirical legal research is research that understands the social conditions and situations in which the law is applied, so that empirical legal research provides a complete understanding of a law when applied in society.[17]

[12] *Ibid.*
[13] See Article 12 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
[14] See Article 22 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
[15] Jimly Asshiddiqie, Hukum Tata Negara Darurat, Rajawali Pers, Jakarta, 2007, pg. 207.
[16] Mukti Fajar dan Yulianto Achmad, Dualisme Penelitian Hukum Normatif dan Empiris, Yogyakarta: Pustaka Pelajar, 2010, pg. 27.
[17] *Ibid.* pg. 44-45.

This study uses normative legal research, normative legal research is used to answer existing problems related to emergencies in handling the COVID-19 pandemic in Indonesia in terms of legal certainty in Perppu Number 1 of 2020 concerning 2020 concerning State Financial Policy and Financial System Stability to Handle The Covid-19 Pandemic and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability.

IV. RESULT AND DISCUSSION

A. Emergency Policy in Indonesia in the Perspective of Emergency Constitutional Law

The term emergency is in line with the word al-dlarurat (Arabic) which comes from dlarar which means an unavoidable condition.[18] In the Big Indonesian Dictionary defines an emergency as a difficult (difficult) situation whose presence cannot be expected which requires immediate response. Forced and temporary circumstances.[19] Meanwhile, according to Wahbah al-Zuhaili, emergency is the arrival of dangerous conditions or very severe difficulties for humans, which makes him worried that damage will occur or something that will hurt the soul, limbs, honor, mind and property. At that time it is permissible to do what is forbidden or leave what is required, or delay the time of its implementation in order to avoid the harm that is expected to befall him as long as it does not go out of the conditions determined by the Shara.[20]

Emergency constitutional law has an object of study, namely a country in a state of emergency or "State of Emergancy". The terms from various countries regarding the situation referred to as an emergency are related to the definition of the emergency. All of them point to almost the same meaning, namely a state of danger that suddenly threatens public order, which requires the state to act in unusual ways according to the rule of law that normally applies under normal circumstances.

In the theory of emergency constitutional law, namely objective and subjective emergency constitutional law. Subjective emergency constitutional law is the right of the state to act in a state of danger or emergency by deviating from the provisions of the law or even the provisions of the constitution. While the objective emergency constitutional law is the constitutional law that applies when the country is in a state of emergency, danger, or crisis, while according to Kim Lane, states of emergency involve extreme things, out of the ordinary. So the state needs to violate its own principles in order to save itself from this situation.

In Indonesia itself, regarding the state of emergency, several constitutions whose contents can be seen have been applied, such as in the 1949 RIS Constitution and the 1950 Constitution. Juridically, the Basic Law has regulated the emergency situation that will be faced by the state in the Indonesian Constitution, which regulates the state of emergency. emergency in Article 12 and Article 22 of the 1945 Constitution. Article 12: “The President declares a state of danger. The conditions and consequences of a dangerous situation are stipulated by law” further, Article 22: “In the case of a compelling emergency, the president has the right to stipulate a government regulation in lieu of a law.

[18] Abdul Natsir, “AbortusAtas Indikasi Medis Menurut Konsep Al-Dlarurat Dalam Islam,” Sumbula: Jurnal Studi Keagamaan, Sosial dan Budaya FAI Undar Jombang 2, No. 2 2017, pg. 561.
[19] “Kamus Besar Bahasa Indonesia (KBBI),” acsessed by https://kbbi.web.id/darurat, at Juny 29th 2022.
[20]

From the two provisions of the article, it is known that there are two terms used to define an emergency, namely "a state of danger" in Article 12 and "concerning matters of urgency" in Article 22. The stipulation of the Perppu is also contained in Article 1 point 4 of Law Number 12 of 2011 concerning the Establishment of Legislation which reads: "Government Regulations in Lieu of Laws are Legislations stipulated by the President in matters of compelling urgency" from the several articles above it can be understood that in an emergency the president is given the authority to issue Perppu to respond to emergencies that occur in a country. Referring to the original intent, according to M. Yamin the state of danger as referred to in Article 12 of the 1945 Constitution is a situation known as martial law or staat van beleg.[21] If traced, in the draft 1945 Constitution which was discussed during the BPUPKI session on July 13, 1945, the formulation of the state of danger in Article 12 begins with Article 10 of the 1945 Constitution Bill with the formulation "The President declares "staat van beleg". The terms and consequences of "staat van beleg" are stipulated by law". The term "staat van beleg" was then refined with the phrase "a state of danger". The conditions and consequences of a "state of danger" are stipulated by law".

If viewed based on the original intent as referred to by M. Yamin above, Article 12 of the 1945 Constitution is an article that authorizes legal deviations in constitutional emergency conditions. The article exclusively gives this authority only to the president as the head of state (the sovereign executive). The authority of the president to only declare a state of emergency Article 12 of the 1945 Constitution is not merely proclaiming but much more than that, namely changing the character of normal constitutional law into an emergency. Therefore Article 12 of the 1945 Constitution can be said to be the activation button for the enactment of the emergency constitutional law. Thus, the enactment of an emergency in constitutional law causes actions that are against the law (onrecht) can be justified to be carried out because of reasonable necessity.

Daniel's view is that the provisions of the Perppu in Article 22 paragraph (1) of the 1945 Constitution are considered inseparable from the president's authority to declare a state of danger as referred to in Article 12 of the 1945 Constitution. This is because the Perppu is viewed from the perspective of emergency constitutional law which requires a state of danger/emergency.[22] Meanwhile, Prof. Jimly Asshiddiqie's view explains, although in practice, the terms "concern urgency" and "dangerous circumstances" can have the same practical meaning, but actually they have different meanings.[23]

Furthermore, according to Jimlly, everything that is "dangerous" always has a nature that creates a "forced urgency". However, the reason for "forced urgency" as referred to in Article 22 paragraph (1) does not always constitute a state of danger as referred to in Article 12.[24]

1. Principles in Enforcement of Emergencies

1) The principle of proclamation

[21] Fitra Arsil, "Menggagas Pembatasan Pembentukan Perppu: Dan Materi Muatan 29 Studi Perbandingan Pengaturan Dan Penggunaan Perppu Di Negara-Negara Presidensial," Jurnal Hukum & Pembangunan (2018).

[22] Noevriza Rahmi, "Mengurai Problematika Perppu: Memaknai Irisan Perppu dan UU Darurat, 4 September 2017 diakses melalui https://www.hukumonline.com/berita/a/memaknai-irisanperppu-dan-uu- darurat-lt59ad2f9c2a944, pada tanggal 01 Juli 2022, pukul 04.30 WIB

[23] Jimlly Assiddiqie, "Hukum Tata Negara Darurat" Jakarta: RajaGrafindo Persada, 2007, pg. 3.

[24] *Ibid.*

An emergency must be announced or proclaimed to the whole community. If thestate of emergency is not declared, the actions taken by the government will not bevalid.

2) The principle of legality
The principle of legality here relates to the actions taken by countries in an emergency. Actions taken must remain within the corridor of law, both national lawand international law.

3) The principle of the community
State experiencing an emergency must communicate the situation to all citizens. Inaddition to its citizens, the government must also notify other countries officially.Notifications are made through representatives of the country concerned and to theUN special rapporteur " *special rapporteur on state of emergency*"

4) The principle of temporary
In determining the state of emergency there must be legal certainty, namely theperiod of application of the emergency. This is because the state in a state of emergency can injure the basic rights of citizens. So that the implementation of astate of emergency must be clear about the start of its implementation and the timeit ends

5) The principle of privilege
Threat A crisis that creates an emergency must actually occur or at least contain a potential danger that is ready to threaten the country. Threats that exist must be special because they pose a threat to life, physical, property, sovereignty, sovereignty, safety and existence of the state, or common life in a country.

6) The principle of proportionality
The purpose of imposing a state of emergency is so that the state can return to its original state in a short time. Therefore, the actions taken must be appropriate to the symptoms that occur. lest the state take actions that are not in accordance with tend to be excessive.

7) The principle of intangibility
This principle is related to human rights. In an emergency, the government may not dissolve its supporting organs, namely the legislature and the judiciary.

8) The principle of supervision
The implementation of an emergency situation must also be controlled. Must comply with the principles of rule of law and democracy. Parliament must oversee the conduct of the state of emergency without reducing the authority to oversee the policies taken by the government. So in an emergency the state can reduce some of human rights. However, the state must not reduce human rights in the slightest, namely: (1) The right to life;
   a. The right not to be tortured;
   b. Right to freedom of thought and conscience;
   c. Religious rights;
   d. The right not to be enslaved;
   e. The right to be recognized as a person before the law;
   f. The right to be prosecuted on the basis of retroactive law.
   g. The Principles of Coercive Emergency.

Restrictions on compelling urgency as required by the Constitution must be formulated carefully so that the contents of the Perppu do not conflict with the principles as regulated in Article 6 paragraph (1) of Law 12/2011, namely:

a. Shelter;
b. Humanity;
c. Nationality;
d. Kinship;
e. Archipelago;
f. Unity In Diversity;
g. Justice;
h. Equality in law and government;
i. Order and legal certainty; and/or
j. Balance, harmony and harmony.

The formation of the Perppu must be based on these principles so that justice and legal certainty for the community and government are achieved, so that the formation of the Perppu in its implementation does not cause polemics in the community.

The constitutional system basically contains two aspects, namely aspects relating to the power of these state institutions and the relationships between state institutions and citizens. Both aspects can be seen in the constitution of a country.[25] In every state of danger, the President has the right to stipulate government regulations in lieu of law. On the other hand, not every time the President stipulates a government regulation as a substitute for a law, it means the country is in a state of danger. Everything that is dangerous is of course always a "coercive urgency", but everything about a compelling urgency is not always dangerous. Therefore, in a state of danger according to Article 12 of the 1945 Constitution, the President may issue a Government Regulation in Lieu of Law or Perppu whenever necessary. However, the stipulation of a Perppu by the President does not necessarily mean that there is a state of danger first. This means that even in normal state conditions, if the conditions are fulfilled, the President can just issue a Perppu.[26]

In determining state policy in a state of emergency, the main elements that must be present are First, the existence of state dangers that must be faced with extraordinary efforts. Second, ordinary efforts, common and customary institutions are not sufficient to be used to respond to and overcome the existing dangers. Third, the extraordinary powers granted by law to the state government to immediately end the emergency, return to normal life. Fourth, the extraordinary powers, and the emergency constitutional law are temporary, until the emergency is deemed no longer dangerous.[27]

Article 22 paragraph (1) of the Constitution affirms in principle that a Perppu is a government regulation that acts as a law or in other words a Perppu is a government regulation that is given the same authority as the law. Perppu must be stipulated by the President in matters of compelling urgency that must be addressed immediately because at that time the President could not regulate it by law, while the formation of laws required a relatively longer time and went through a lengthy procedure.

[25] Zainal Arifin Hoesein, Judicial Review di Mahkamah Agung RI, Tiga Dekade Pengujian Peraturan Perundang-undangan, Jakarta, Raja Grafindo Persada, 2009, pg. 26.
[26] *Ibid.*
[27] Herman Sihombing, Hukum Tata Negara Darurat di Indonesia, Jakarta: Djambatan, 1996, pg. 1.

2. The existence and enforceability of Government Regulations in Lieu of Laws issued by the President during an emergency due to the Covid-19 pandemic in terms of legal certainty

In the constitutional system in Indonesia, it has been explicitly regulated in Article 12 of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) which states that "the President declares a state of danger, the conditions and consequences of a state of danger are determined by law." Furthermore, in the matter of urgency that forces the president to stipulate government regulations in lieu of law.

In the practice of administering the state or government sometimes things that are not normal in the life of the state, where the legal system commonly used is not able to accommodate the interests of the state or society so that to move the functions of the state or government in unusual conditions, special arrangements are needed in order to run effectively in order to guarantee and fulfill the basic rights of citizens.[28] To anticipate abnormal conditions in the life of the state, constitutionally it has been normalized in Article 22 of the 1945 Constitution as follows: (1) in the case of a compelling emergency, the President has the right to stipulate a Government Regulation in Lieu of Law; (2) Government regulations must be approved by the House of Representatives in the following session; (3) if the approval is not obtained, the Government regulation must be revoked.[29]

One of the problems that has recently hit almost all countries in the world today is the threat of the Covid-19 virus. The threat is so real that it affects almost the whole world, including Indonesia. This of course requires a discourse by looking at the problem as a whole and thoroughly to determine policies. To overcome these problems, the Government of Indonesia, in this case the President, has issued Government Regulation in Lieu of Law/Perpu Number 1 of 2020 concerning State Financial Policy and Financial System Stability to Deal with the Covid-19 Pandemic and/or In the Context of Facing Threats That Endanger the National Economy and /or Financial System Stability. As stated in Article 1 paragraph 3 of the 1945 Constitution which states "The State of Indonesia is a state of law". this is based on the explanation of the 1945 Constitution that the Indonesian state is based on law (rechtstaat) and is not based on mere power (machstaat). Therefore, the state must not carry out its activities on the basis of mere power, but must be based on law.[30]

In Indonesia, the regulation of the people carried out by the government is based on the State Administrative Law. State Administrative Law is a set of regulations that enable the state administration to carry out its functions, which at the same time also protects citizens against acts of state administration, and protects the state administration itself.[31] In carrying out the public function of the state administration, it will cause various kinds of impacts, especially with regard to the rights of the community, including business entities in it that are owned by the community. Between the government as the government and the government as the state administrator make decisions with the same authority, namely "state authority" or public authority. However, the government as the government makes government decisions, and as administrator makes

[28] Muhammad Syarif Nur, "Hakikat Keadaan Dsrurat Negara Sebagai Dasar Pembentukan Peraturan Pemerintah Pengganti Undang-Undang" Jurnal Hukum No. 2 Volume 18 April 2011

[29] Pasal 22 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

[30] C.S.T. Kansil, Hukum Tata Negara Republik Indonesia, Jakarta: Bina Aksara, 1986, pg. 86.

[31] Sjachran Basah, Perlindungan Hukum Terhadap Sikap-Tindak Administrasi Negara, Bandung: Alumni, 1992, pg. 42.

administrative decisions. In addition, government decisions taken are implementation or executive (politieke daad) enforcement of laws and the authority of the state, while administrative decisions are taken as implementation or realization decisions (materialele daad).[32]

Government Actions The public duties that are on the shoulders of this state administration cannot be separated from the foundation on which the state administration acts. The basis of the actions taken by the state administration is of course based on the provisions of the regulations in state administrative law (administratieve rechtsregels), as the basis that justifies the action legally (jurische rechtsvaardiging), in accordance with the concept of the rule of law. These legal regulations (rechtsregels) are related to the organization of state administrative agencies (organische rechtsregels), and to the functions of state administration (functionele rechtsregels). Attribution, delegation and mandate are sources of authority in a democratic rule of law-one of the principles of a democratic rule of law, that every government action must be based on the law (the principle of legality, the principle of rechtmatigheid van bestuur). Every action of state administrative bodies/officials must be based on formal laws as a form of recognition and respect for the sovereignty of the people. Attribution in this case is more important if it is associated with government actions that place certain burdens or certain obligations on the people.[33] Utrecht is of the opinion that the government's actions which are legal actions for the implementation of the public interest are:

a. Imposing obligations on these organs to carry out the public interest.
b. Issue laws that are prohibitive or aimed at every citizen to carry out necessary actions (behaviors) in the public interest.
c. Commands or statutes that are burdensome.
d. Provide subsidies or assistance to the private sector.
e. Giving legal status (rechtstatus) to someone according to his wishes, so that person has rights and obligations.
f. Supervise private work.
g. Cooperating with other companies in prescribed forms for the public interest.
h. Make agreements with citizens based on matters regulated by law. Government action (bestuurshandeling) is an action or deed carried out by government equipment (bestuursorgaan) in order to carry out government functions (bestuursfunctie). The actions taken by the government are legal actions (rechtshandeling) and real actions (feitelijkehandeling). Legal action (rechtshandeling) by its nature is an action that can lead to legal consequences (creating rights and obligations). Government legal action is an action taken by a state administrative agency or official in carrying out government affairs. Government action has elements, namely:
    1) The act is carried out by government officials in their position as rulers and as government equipment (bestuurs-organen) with their own initiative and responsibility;
    2) The act is carried out in the context of carrying out government functions;
    3) The act is intended as a means to cause legal consequences in the field of administrative law;
    4) The act concerned is carried out in the context of maintaining the interests of the state and the people. The government's legal action has the following elements:34 The action is carried out by government officials in their position as rulers and as government equipment (bestuursorganan):

[32] *Ibid.* pg. 45
[33] S.F. Marbun, Hukum Administrasi Negara I, Yogyakarta, FH UII Press, 2012, pg. 45.

a) Actions are carried out in the context of carrying out government functions (bestuursfunctie);
b) The action is intended as a means to cause legal consequences (rechtsgevolgen) in the field of administrative law;
c) Actions taken in the context of maintaining the public interest;
d) Actions are carried out based on the norms of government authority;
e) Such actions are oriented towards certain goals based on the law.

V. CONCLUSION

Issuance of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid19) Pandemic and/or In Facing Threats That Endanger the National Economy and/or Financial System Stability issued by the President in accordance with its authority based on Article 22 paragraph (1) of the 1945 Constitution and in accordance with the Constitutional Court Decision Number 138/PUU-VII/2009, in which the conditions as stated in the preamble considering and in the explanation of the Perppu above have met the parameters as a compelling urgency. for the purpose of stipulating a Government Regulation in Lieu of Law, among others:
a. because of the urgent need to resolve legal issues quickly based on the Act; b. The required law does not yet exist, resulting in a legal vacuum or inadequacy of the existing law; and c. the condition of a legal vacuum that cannot be overcome by making laws in the usual procedure which takes quite a long time while the urgent situation requires certainty to be resolved.
With the issuance of the Perppu, it provides a legal basis and legal certainty for the Government of the State of Indonesia which is based on law (rechtstaat) and is not based on mere power (machstaat). In determining decisions and/or actions taken in order to overcome the threat of Covid-19 in the health sector, social threats and threats to the economy and financial system stability.

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