

## **Narcotics Storage Management Authority And Destruction**

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**Abstract:** *The management of the storage and destruction of confiscated objects is an important aspect for the implementation of the allotment in narcotics criminal acts so that the purpose of the EAS itself. This method of research is using juridical research that examines the applicability of the law in the practice of law. Management authority of the storage of narcotics site is carried out by Rupbasan as a container for the storage of the site, which is assumed by prosecutors responsible for the confiscated and stored on prosecutors, and the narcotics agency National can also store narcotic citations. The enforcement authority for the destruction of narcotics site is suspended to prosecutors as the execution and narcotics of National as investigators in narcotics criminal act in accordance with statutory regulations.*

**Keywords:** *Authority; Storage; Destruction; Confiscated objects.*

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### **I. Introduction**

Narcotics have a very important role in people's lives for medical purposes that serve as medicines. Narcotics can process technological modernization for the benefit of treatment as well as developments in scientific interpretation (Sunarso, 2004: 111). Based on the content of article 1 of paragraph 1 of law No. 35 year 2009 on narcotics gives the definition that, narcotics is a substance or form of drugs derived from plants or not plants, meaning it could be the processing of narcotics can come from of plants and medications made by humans, resulting in decreased or changing consciousness, the disappearance of taste, reduce to pain relief, and result in dependence.

Related to the storage of narcotics site is governed by article 44 of the Code of Law of the Criminal Procedure, requiring that the seized objects are properly stored in the State Depository (Rupbasan) House and is the responsibility of Authorized acting at a certain level of inspection. In article 27 paragraph (1) of government Regulation number 27 year 1983 concerning the implementation of the Code of Law of Criminal event states that, in the Rupbasan placed objects that must be kept for the purpose of evidence in the examination in the level of The investigation, prosecution and examination at the Court of Session included goods that were declared deprived based on the judgment of the judges. Based on this legal basis of the Rupbasan under the Ministry of Law and Ham has the authority in the matter of storage and narcotics site but not have the obligation to do the destruction, but the right to participate as a supervisory officer in the Destruction.

Furthermore, the storage of narcotic citations is also the authority of the attorney which is a legal basis in article 979 of Attorney General No. 006-A-JA year 2017 about the organization and the work procedure that determines the regulation of sexy Management of state and national loot. The establishment of a state-of-the-art Management section that works from the Management Section has included or followed the authority of the Rupbasan. Prosecutors not only on duty and competent to make the demands of perpetrators of criminal acts, but also have to seek evidence or evidence of legally valid narcotics who then used to launch the course of prosecution in the trial, Because the evidence is used as evidence of perpetrators who have committed a narcotic criminal act and then whether the evidence is drawing the event it was that he was endowed (Arianto, 2017: 15). As for the attorney's authority on the site of narcotics is a legal basis that used is the same as the Rupbasan, but in the meaning of the word contained therein it is only responsible for the drug site without the right to Storing objects placed on prosecutors. This became the prosecutor's authority to hold a citation object to facilitate the prosecution in the proceeding.

The role of the Prosecutor in the destruction of the narcotic site is present at the authority of prosecution, meaning that the institutional function of the Prosecutor has the right to do destruction by the prosecutor after the court decision is established. The narcotics destruction procedure is governed by Article 91 Act No. 35 year 2009 about narcotic. In the circular letter number 018/A/JA/08 year 2015 on the handling of narcotic evidence states that during the 7 days of the state attorney's Office should determine the status of narcotics confiscated, because if it crosses the deadline for 7 days, then Criminal Code as of article 141 of Law No. 35 year 2009 concerning narcotics.

Other institutions that are authorized to store narcotic matter is, the National Narcotics agency that has been established in law No. 35 year 2009 on narcotics. This law is specialized in dealing with narcotics criminal offence which gives its authority to Agencies of National Narcotics Agency. The storage is only at the level of investigation that has been submitted at the Prosecutor's level. For the destruction of narcotic citations, the National Narcotics Agency may perform the destruction of the drug object, even though it has not received a court ruling, it is made known by the narcotics Dangerous.

In fact the implementation of the destruction of the narcotics site, the amount of the object of the matter of Methaan and illegal drugs continues to increase annually in the year 2015 the goods are 2.76 grams with seven defendants, Then in the year 2016 The increase in its goods reached 112.01 grams with 56 defendants, in the year 2017 the citation and the defendant also increased to 140 grams of the goods and 64 the defendant, this indicates that the site is a matter of drugs and Illegal drug discovery annually increases, then there is the destruction of the confiscated that the object is collected with a lot of content in advance to several new years of destruction, this clearly contradicts. The rules that I have in place that have been determined the confiscated in the state Deprived for the destruction was carried out the seven-day verdict of the ruling, in this context the officials destroyed the object of the site in 2017 which Collected for 3 years.

Based on the background of the author, he wants to review and answer how the prosecutor's role in the management of the storage of narcotic citations and how the attorney's role in the management of the destruction of narcotics site. There are several research related and similar to the writing of this research namely:

1. The first research by Tri Wahyuni, which discusses the implementation of the management of the site is governed in the regulation of the Minister of Justice No.. M-05-UM-01-06 year 1983. The implementation is governed by the decree of the Director general of Correctional No. E2-UM-01-06 year 1986 which has been perfected with decree of the Director general of Correctional No. E1-35-PK-03-10 year 2002 on the implementation of technical instruction on the management of state-of-the-art in storage house of State The mechanism of implementation of the State and state goods management in Rupbasan includes: acceptance, research, registration, storage, maintenance, update, rescue, security, management, and deletion (Wahyuni, 2008).
2. The research by Uswah Khairi Fadillah, which discusses the implementation of police Intansi that serves to determine the status of goods that become evidence to be carried out foreclosure according to the prevailing procedures and equipped with administration. The implementation of the evidence is carried out by foreclosures, procedures, up to the administration of evidence reports. The research also discusses police barriers in implementing evidence management, namely, the Government undertakes facility support for police units, such as the absence of file storage and other evidence, so that The police are unable to perform their duties and functions properly (Fadillah, 2017: 40).
3. Richo Sumardana, discussing the storage of evidence there is the arrangement in article 44 paragraph (1) and (2) The Code of the criminal procedure that requires the object to be contained in the Rupbasan so that the storage can be carried out by Neither is the responsibility of the authorities on the site with a certain level of examination and the object should not be used by anyone as well (Sumardana, 2017: 34).

While the study explained the role of prosecutors in managing the storage and destruction of narcotics confiscated objects and the role of prosecutors in conducting supervision and management of the destruction of narcotics confiscated.

## **II. Literature Review**

The storage place for the goods and the state booty is the storage house of the state's confiscated (Rupbasan). Rupbasan is the only legal institution to keep it as stipulated in the Ministerial regulation of the Minister of Justice No. M. 05. UM. 01.06 year 1983 concerning the management of the state's citation and State goods (Hibnu Nugoho, 2017: 1380).

Regulation of the head of National Narcotics agency Number 8 Year 2013 on the management of goods and environmental law of narcotics in the State article 7 paragraph (1) states that: The findings obtained by the BNN investigator at the time of the action in the field or found a society in the form of objects and/or tools related to narcotic and narcotic criminal acts that occur or are abandoned by suspects because Escape or suspect has not been caught.

As a manager of narcotics evidence Article 9 of the regulation of the head of National Narcotics agency number 8 year 2013 mentioned that:

- (1) Proof of goods Manager is a designated personnel based on the warrant issued by:
  - a. BNN head at BNN level;
  - b. Head of BNN Province at the provincial BNN level;
- (2) The organizer of the evidence as referred to in paragraph (1) consists of at least 3 (three) personnel or adjusted to the strength of personnel in each unit.

(3) Proof of goods Manager as mentioned in clause (2), consist of:

- a. Head of proof of goods manager;
- b. The staff for administrative affairs of evidence of the lowest rank of group III/A;
- c. At least class II/b general assistant staff.

Destruction is a series of investigator actions to destroy the site, which is done after the establishment of the local state prosecutor to be destroyed and witnessed by the representative office, the element of prosecutors, Ministry of Health and Food and drug control agency. In case the element of the Office is not able to attend, the destruction is witnessed by the other party, the official or members of the local community. Law Number 35 year 2009 concerning narcotics in Article 90 clause (1) states: For the purposes of investigation, prosecution, and trial test, the Indonesian National Police investigator, BNN investigator, and civil servants investigator set aside a small portion of narcotics and narcotics citation goods to serve as Samples for testing in a particular laboratory and carried out within the longest time of 3x24 hours (three times twenty-four) hours since foreclosure.

From these provisions we can know that the supervision in the destruction of narcotic citations is witnessed by officials representing the element:

1. Attorney Local affairs,
2. Ministry of Health,
3. Food and Drug Control agency.

The process of destruction of narcotics evidence at the level of investigation, prosecution and at the judicial level, is indeed mandated in the criminal CODE, Law 35Years 2009 about narcotics, then should law enforcement officers (criminal justice system) Do not hesitate to implement destruction. Each drug evidence seized, found from the results of the submission of the public to the competent authorities must be destroyed. This is in line with the realization of the implementation of national wisdom and strategy stating that the destruction of narcotics evidence is as soon as one of the efforts to eradicate narcotics abuse in Indonesia generally Banda ACEH In particular, including for the prevention of misuse of authority by officers dealing with matters and so on. However, if the element of the Office is not able to attend, the destruction is witnessed by officials or members of the local community.

Narcotics destruction procedure is set in detail in regulation of BNN 7/2010. There is actually no fundamental difference in the procedure of extermination of narcotics goods arranged in the narcotics ACT and head regulation of BNN 7/2010. Only, for order and security in the implementation of extermination, regulation of the BNN head 7/2010 is required to serve as a technical and implementing guideline of the articles in the Nartikayang LAW which contains the destruction of citations Narcotics, article 91 paragraph (2), paragraph (3), paragraph (4), paragraph (5) and article 92 paragraph (3).

### **III. Management Authority On The Storage And Destruction Of Narcotics Site**

The actual authority coming from outside parties wrapped in the role of the relevant agencies, for the role of oneself is considered to be the role that comes from the individual. This authority works if someone adapts to others, or is done with a lot of parties (Soekanto, 2007: 8). The roles of law enforcement in carrying out their duties and functions can be categorized among them:

1. The Ideal role, a role that is sourced from outside, and then made the beginning of the implementation of an activity so that the other party just follow it. This role begins when there are certain parties who perform or activities.
2. The Ideal role, a role that is sourced from outside, and then made the beginning of the implementation of an activity so that the other party just follow it. This role begins when there are certain parties who perform or activities. The role should be that a role that comes from a law enforcement apparatus that is supposed to be implemented, this role is derived from its own initiative without the disruption of outside parties to perform activities. This role relates closely to the obligation of a person in conducting an activity without any command he/she will do what should be done.

The attorney's authority in the management of the storage of narcotic matter is a role of Rupbasan in accordance with the content of article 44 KUHAP requires that narcotics site is properly placed and correctly according to the Rupbasan and Narcotics is the responsibility of the acting authorized at a certain level of examination. Based on article 27 of the Government regulation No. 92 year 2015 as the Second Amendment to government regulation No. 27 year 1983 on the implementation of the Criminal Program Law states that:

- (1) The citation object is placed in the Rupbasan for the purpose of evidence in the proceeding.
- (2) handed over to the local chief Rupbasan.
- (3) Ensure the safety and security of the site.

In the implementation of this storage is actually clearly authorized to Rupbasan, while the prosecutor is only responsible for narcotic site. In the theory of accountability of responsibility theory more emphasis on the meaning of responsibility born from the Provisions of legislation so that the theory of responsibility is

interpreted in artiliabilty which means pointing to the legal liability That is the responsibility of the wrongdoing by the legal subject. Departing from the explanation of responsibilities, the attorney's authority in the management of the storage of narcotics site is clashed with the authority carried by Rupbasan. Then, in this writing, he will explain the authority of who must be fulfilled first.

The authority of the National Narcotics Agency in the depository is clearly contained in the law No. 8 of 2013 on the management of evidence goods in the National Narcotics Agency, stating that the physical storage of narcotic matter is Be the responsibility of the Rupbasan (Sunardi, 2017: 16). This law also mandated the citation stored on the Rupbasan with its responsibilities. The authority of the National Narcotics Agency does not make room for the storage of citations by BNN.

One member gives the definition of the authority that he thinks is the definition given from the law of the government agency, can be explained the entire rules relating to the use of government authority by the perpetrator or the subject of public law (HR., 2006: 71).

The source of this is the authority of the authorities between prosecutors and Rupbasan agency is based on three elements:

1. Attribution i.e. the Authority sourced from the Division of State power by the Constitution;
2. Delegation of authority that is sourced from the bestower of government agencies and other institutions governed by the Law on the responsibility that;
3. Mandate that is the delegation of authority with the relationship between the employer and subordinate with the responsibility of the mandate.

These resources can then be restricted by various means, with the material in the delegation of authority itself and the territory of the validity of the authority and the time in which the period must be replaced (Nitibaskara, 2002: 65). In relation to the subctance of this writing the role as mandated by the law relating to the management of the storage and destruction of the site is a duty of the head of Rupbasan, which is then managed and supervised to To accelerate the trial and to provide assurance to the site, then the attorney rules also contain the management of the citation object. In the prosecutors regulation there is a section about the management of the material that the task covers the task of Rupbasan. From here the author finds out the authority of who should be in the practice of his true law.

From the results of interviews with the public prosecutor of Banda Aceh, actually the authority to keep the site is the authority of the Rupbasan as stated in article 44 of the criminal CODE, in practice the Prosecutor shall take the applicable provisions Internal institution in the Prosecutor in accordance with the Regulation No. 006-A-JA-7 year 2017 about the organization and the work of the Prosecutor's Office that has the existence of the material The prosecution.

Further affirmed that, the role of the storage carried out by the prosecutors have some strong reasons in the practice of law to be held in prosecutors, among others:

1. Storage in Rupbasan has not been able to accommodate the material generated in the criminal act, so that the implementation of the storage of the site is stored in prosecutors with prosecutors;
2. Ineffective, namely with the storage distance of narcotic confiscated far from the difficult to complicate the dissimilar in the retrieval of confiscated that must be proved in the trial;
3. Prosecutors responsibility against narcotics site, meaning that the actual responsibility that must be carried out by the prosecutor is still unclear in the implementation, whether the Prosecutor is responsible for all physical objects Can be held completely accountable to the prosecutors, in which case there are no regulations governing it;
4. Prosecutors claim that they also have authority over the management of the citation objects. With the attorney rules on the existence of the management of the citation material, the prosecutor's agency was given space to store the confiscated with the neglect of the Criminal Code enforced internally.

From the explanation above the authors found that there is an inconnection to the attorney rules with the above regulation, namely KUHAP, in fact prosecutors must observe the context of Lex Superior Derogat principle Legi Inferior which is the regulation Height may override the rule below. According to head of Rupbasan suggests that the process of storing the site is done in the following way:

1. The object is stored at the stage of examination, among others: stage of investigation, prosecution, stages of the judiciary, the stage of casation.
2. The citations are stored based on the risks of storage, such as the general material, the object of valuable matter, the material is dangerous, the object is open and quickly broken.
3. The object is stored based on, among others:
  - a. Correspondence or Paper;
  - b. Iron type;
  - c. Non-Ferrous;
  - d. Medicines ATA Chemicals;
  - e. Electronic;

- f. Machine;
  - g. Gas or oil;
  - h. Home appliances;
  - i. Food and drink;
  - j. Crop;
  - k. Animal animals;
  - l. house, Building;
  - m. land;
  - n. Air vehicle and marine vehicle.
4. Items that are borrowed from law enforcement apparatus are returned to Rupbasan and must re-study, assessment of narcotics site.

Furthermore, he also asserted that the general material qualifications, prices, hazardous and damaged objects were placed in accordance with the qualifications themselves. Related to the constraints faced by Rupbasan in doing its role in the storage of the site, there are several obstacles that are currently faced by the Rupbasan are:

1. The resources of employees who are still lacking support the implementation of effective and efficient storage.
2. Supporting facilities and infrastructure as well as the estimated use of storage is still very lacking.

The constraints, the state of the country in managing the limited confiscated objects, resulting in damaged objects and their values considerably decreased when they were about to be destroyed. Therefore, the Government should be able to plan new regulations to keep the storage and destruction of the site that has been in the authority of Rupbasan.

The Destruction Act is an act that is instituted by the Public Prosecutor and the investigator to eliminate the site. The implementation of the material destruction can be done after the establishment by the local prosecutor then Destroyed and attended by several competent officers such as prosecutors, Kemenkes and BPOM.

The stage of the destruction of narcotics confiscated at the level of investigation, prosecution and court is contained in the Criminal Code and Law No. 35 year 2009 on narcotics, should be law enforcement apparatus here there is no doubt in any The destruction of narcotic citations. Narcotics confiscated that have been seized from the results of a criminal act immediately destroyed. Implementing the destruction of narcotics site in accordance with the policy in implementing the national Program that requires the destruction of narcotics confiscated immediately realize the efforts to eradicate drug crimes in Indonesia, especially Banda Aceh, Including the prevention of misuse of authority by state apparatus in performing its duties (S., 2016: 14).

Drugs destruction of narcotics is governed in detail in the regulation of head BNN 7/2010. There is actually no fundamental difference about the destruction of the narcotics goods set out in the narcotics ACT and the head regulation of BNN 7/2010. Only, for order and security in the implementation of extermination, regulation of the BNN head 7/2010 is required to serve as a technical and implementing guideline of the articles in the Nartikayang LAW which contains the destruction of citations Narcotics, article 91 paragraph (2), paragraph (3), paragraph (4), paragraph (5) and article 92 paragraph (3). Narcotics from the findings of the BNN investigators above 3 kilograms, the destruction is at the level of investigation, because the object is only the sampling is taken for proof in the remainder of the trial is destroyed at the level of investigation and Prosecutors are not authorized in the implementation of this destruction.

The prosecutor in the annihilation of the prosecution is in Article 91 law No. 35 year 2009 concerning narcotics that require the state attorney's Office to receive notification in writing of the confiscation of confiscated from investigators, Its implementation must be done within the seven days and establish the status of narcotics site to prove the evidence in the trial, for the development of science, education, and destruction. The regulations clearly require that the Prosecutor should immediately annihilate the site after the regulation of the narcotic site was destroyed.

Related sanctions when the contents of the article 91 were not executed then there is a sanction set in the circular letter number 018-JA-08 year 2015 about the treatment of narcotic site is not carried out in the tempo of seven days of the prosecutor's office The state can be threatened by a criminal offence as of Article 141 Act No. 35 year 2009.

In fact, the destruction of the field is not so, but the evidence of narcotics in collecting first until much new is the destruction of which there is a lot of destruction that there is no procedure Strong. The destruction is done when there are certain occasions such as the attorney's ANNIVERSARY event or related institutions, this is clearly concerned with the prevailing law stating that the goods in the ramps that have had a legal force remained should be destroyed immediately. If the case has been obtained the verdict so the site is returned to the prosecutor who then carried out the destruction under the provisions of Article 91 Act No. 35 year 2009 about narcotics provide function for destruction by Laws.

The process of destruction was carried out after the status of the confiscation of the Court for the seizure and execution of the court. Once this has been fed by the National Narcotics Agency can directly annihilate the narcotic site by:

1. Destruction at the level of investigation using the simulator engine;
2. Attended by related elements;
3. Destruction carried out in the area of BNN.

Prosecutors have formed subsection of the state deprived of the country in charge of noting the booty and register the book, conducting electronic-based management provides data, performs the matching of the material content supported by Documents, document filtering of citations, sorting out the site, planning as well as the completion efforts, making an archival report on the management of the citations from the outcome of the crime to conduct an activity on the site of narcotics.

According to the results of interviews, Authority destruction of narcotics confiscated in the district attorney channeled with the following steps:

1. Sealing material/booty;
2. Register the site based on the hours, month, year, place;
3. Provide information on the possession of narcotic citations;
4. Description of officials who submit a confiscated object surrender.

After this step above has been addressed, the next step to be done to perform the management of the destruction, among others:

1. Preparing the news of the destruction event;
2. Placing the citations on a safe place;
3. Forming an annihilation of destruction;
4. Attending community leaders or community Swadaya agencies;
5. Carrying out the verdict;
6. Implementation of narcotic site.

Related to the destruction time carried out does not refer to Article 91 Act No. 35 year, which necessitates the execution of the site that has been awarded the verdict for the next seven days to execute the execution after Set to be destroyed due to various factors, among others:

1. The confines of budget destruction activities;
2. Difficult to regulate the time being performed because it must be attended by several agencies;
3. No place of destruction is specific for destruction activities.

From the explanation above, it can be seen that prosecutors are still weak in implementing the destruction of narcotics site. About Circular Letter No. 01-A-JA-08 year 2015 concerning the handling of narcotic evidence within seven days of the state prosecutor's Office is obliged to establish the status of narcotic citations due to the time limit For 7 days, then the criminal offence as section 141 of Law No. 35 year 2009 cannot be sanctioned, because the prosecutor's head only determines the status of the site.

The content of the narcotic matter is stored to be destroyed by a decrease in the content of the object, because it is eaten by a time like marijuana that was first done storage 2 kilograms which can then be 1.5 kilograms The cannabis leaf itself. The object should be immediately destroyed when it has been given the ruling that the legal certainty of the site is fulfilled.

The destruction of narcotic citations should be carried out by prosecutors to avoid the misuse of narcotic citations. The destruction of narcotic site is carried out by obtaining approval from various parties in order to be destroyed and set aside for the development of science and as evidence in the trial, this is true if the site Have not gotten a verdict from the court and. This procedure of extermination was done in a way that is to create the registration number, either a registered or collected number, which is further secured by a warrant of the destruction of narcotic site. The material that has been destroyed must make the news of the confiscated.

According to the interview, the implementation of narcotics site must first get the determination of the local attorney, because the object of the responsibility of the Prosecutors party, after obtaining the determination of the Prosecutor, agency National narcotics as the organizer of new destruction authorities in the destruction, the procedure of destruction includes the following things:

1. Make the news of the destruction event;
2. Set the day, date and place;
3. The name of the witness attending destruction;
4. Types of narcotics;
5. Number of narcotics;
6. The ordinance of its destruction;
7. Responsible Description.

The process of destruction of narcotics evidence at the level of investigation, prosecution and at the judicial level, is indeed mandated in the criminal CODE, Law 35Years 2009 about narcotics, then should law

enforcement officers (criminal justice system) Do not hesitate to implement destruction. Each drug evidence seized, found from the results of the submission of the public to the competent authorities must be destroyed. This is in line with the realization of the implementation of national wisdom and strategy stating that the destruction of narcotics evidence is as soon as one of the efforts to eradicate narcotics abuse in Indonesia, including Prevention of misuse of authority by the apparatus and other matters.

#### **IV. Conclusion**

The authority on the management of narcotics site storage is the responsibility of the Test level which is then stored in Rupbasan as a container for the storage of the confiscated object so that the law can be Well executed. At a certain level of examination, law enforcement officials should observe the elements of responsibility carried out by each agency. While the authority in the management against the destruction of narcotics site is the authority on the level of investigation and execution of the confiscated carried out by the National Narcotics Agency and prosecutors. At the rate of investigation of the site is directly destroyed without the decision of the judge caused by narcotics site is dangerous in nature. At the execution level of the narcotic confiscated must be destroyed after the site has been awarded a verdict from the court.

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