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The Potential for Double Jeopardy Violations in the Regulation of The Imposition of Cumulation of External Sanctions for Violations of Space Utilization

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Abstract
Spatial planning provisions regulate the cumulative external sanctions for acts of violation of space use. This article aims to analyze potential violations of the double jeopardy principle of these provisions. This research is important considering that spatial planning plays an important role in realizing the welfare of the Indonesian people by the mandate of the state constitution so that law enforcement must be implemented appropriately without violating legal principles. The research results show that there is indeed a potential violation of the double jeopardy principle in the regulation, due to the developments of administrative and criminal sanctions nature. To overcome this, it's necessary to reformulate the legal provisions of spatial planning and implement a cumulation of external sanctions that give more attention to legal principles.

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1. INTRODUCTION

Indonesia is an archipelagic country and has been legitimized in the provisions of Article 25 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) [1]. As the largest archipelagic country, of course Indonesia has a very large area whose management as a single spatial unit is the responsibility of the Indonesian government to manage it, for the welfare of the community in line with the mandate of Article 33 of the 1945 UUD NRI. The responsibility for spatial management has been clearly seen and realized through regulations governing spatial planning, namely Law Number 26 of 2008 concerning Spatial Planning (hereinafter abbreviated as UUPR) [2] as amended by Law Number 6 of 2023 concerning Job Creation (hereinafter referred to as UUCK). The formation of spatial planning regulations is indeed very important considering the urgency regarding the existence of space for human life and spatial planning also greatly determines the success of regional development, especially regarding the process of sustainable development [3]. In addition, spatial planning regulations are also urgently carried out considering that spatial planning in the region will greatly impact the ecological conditions of the region [4]. Philosophically, the spatial planning regulations in the UUPR jo. UUCK which emerged from the mandate of the provisions of the 1945 Constitution of the Republic of Indonesia also illustrate the adoption of the concept of a modern legal state, namely a welfare legal state in Indonesia, which no longer plays a role as a guardian of order and security but is actively involved in the lives of the community in order to improve the welfare of the community [5].

Examining the provisions in the UUPR jo. UUCK in more depth, it can be understood that normatively the legislators have tried to regulate and accommodate comprehensively matters related to spatial planning to be regulated in the UUPR jo. UUCK and the laws and regulations below it. This can be seen from the provisions regarding classification in spatial planning, government authority in spatial planning, spatial planning planning, guidance and supervision of spatial planning, community participation, including regulating spatial planning control [2]. In fact, spatial planning regulations have been regulated comprehensively starting from spatial planning at the national, provincial, to district/city levels [6]. The comprehensive regulations that have been tried to be implemented by the government have in fact not resulted in the implementation of spatial planning being free from problems. Very rapid population growth which influences changes in human behavior and needs in a country as well as development that is continuously carried out by the government while on the other hand the condition of space on earth, whether land, sea and air, does not increase [7], certainly creates an obstacle in the implementation of spatial planning. Previous research increasingly confirms the existence of problems that still occur in spatial planning in Indonesia, even from the spatial planning process, such as inaccurate data and maps used in the spatial planning process, to problems that arise in the use of space such as the lack of harmony between the planning that has been made and development, the preparation of sectoral programs from the government that are not in line with the established spatial plan (RTR), including the increasing need for land as part of the space [2]. These various problems can certainly interfere with the will of the legislators to maintain the quality of national territorial space in a sustainable manner as reflected in the considerations considering letter a of the UUPR.

In order to address various problems that arise, especially problems related to spatial utilization, a spatial utilization control mechanism has been provided. Specifically, in the explanatory provisions of Article 35 of the UUPR jo. UUCK, it is stated that spatial utilization control aims to ensure that spatial utilization activities are carried out in accordance with the established RTR (Hasni, 2016). After the changes regulated in the UUCK, spatial planning control is carried out with several instruments, namely through regulations on the suitability of spatial utilization activities (KKPR), the provision of disincentives and incentives, and the imposition of sanctions. Regarding sanctions, they are further regulated in Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning (PP Number 21/2021) and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2021 concerning the Implementation of Spatial Utilization Control and Supervision of Spatial Planning (Permen ATR/BPN Number 21/2021). Article 151 of the Regulation of the Minister of ATR/BPN Number 21/2021 regulates the procedures for imposing administrative sanctions, one of which is that they can be imposed cumulatively. Theoretically, there are two types of cumulative nature, namely internal and external. Internal cumulative is the imposition of two or more sanctions within the same legal regime, for example, the imposition of two or more administrative sanctions, while external cumulative is the imposition of sanctions by combining two or more sanctions within different legal regimes, such as administrative sanctions with criminal or civil sanctions (Saputri, et. al., 2024). The mechanism for regulating the imposition of cumulative sanctions is interesting to study in more depth, by linking it to the principle of double jeopardy, also known in the legal world. Double jeopardy itself is a principle commonly known as the principle of ne bis in idem, which states that a legal action cannot be enforced (sanctioned) twice for the same cause of action [10]. In this article, we will specifically discuss the regulation of the imposition of cumulative sanctions, especially external cumulative sanctions in the context of spatial planning, specifically regarding the potential

violation of the principle of double jeopardy in the regulation of the imposition of cumulative external sanctions for violations of spatial use. This discussion is important because double jeopardy is one of the important principles to be upheld in law, especially to provide protection for the human rights of everyone, including violators, and on the other hand, considering the nature of spatial planning which is important to be realized and implemented as well as possible in order to achieve the mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia for the welfare of all Indonesian people.

This research is certainly not free from the support of previous research, but still has differences from previous research. Several previous studies have discussed, for example, the existence of a "gray area" regarding the imposition of cumulative sanctions on violations related to economic fields such as customs and especially taxation, which can be resolved by applying the una via principle [10]. In addition, there is also research that discusses sanctions, but specifically focuses on administrative sanctions and does not mention their use specifically in certain legal fields. The study concluded that in the imposition of administrative sanctions, an important thing to note is that the imposition of sanctions by the government must be based on legal provisions, and on the other hand, the public must be given the possibility to take legal action against the imposition of these sanctions [11]. On the other hand, there is indeed research that more specifically discusses the imposition of sanctions for violations of spatial planning law, but the results of this study focus more on outlining the form of a strategy for combining the imposition of sanctions in spatial planning law for individuals, governments, and corporations that violate, so that if the strategy is implemented correctly, it can provide benefits in restoring spatial functions, providing a deterrent effect and compensation for the injured party. Based on these studies, it is clear that this writing has a new aspect, considering that in addition to focusing on discussing the enforcement of external cumulative sanctions in the field of spatial planning, this writing also links its discussion specifically to the principle of double jeopardy to support efforts to enforce sanctions in the field of spatial planning that are in accordance with legal provisions and appropriate for the community.

2. RESEARCH METHOD

This legal research is a normative juridical study using two approaches: statutory and conceptual. Therefore, this study will conduct various literature reviews, starting from primary legal materials, namely various laws and regulations such as the spatial planning law, the job creation law, and other related regulations. Furthermore, various scholarly doctrines will be examined from various secondary legal materials, such as various books and journals related to spatial planning, general administrative law, and the enforcement of sanctions.

3. RESEARCH RESULTS AND DISCUSSION

3.1.Regulation of Sanctions and Cumulative Sanctions in the Utilization of Space

Laws are made to be implemented and enforced. Law enforcement is important to carry out considering that law enforcement is related to the process of realizing legal ideals or desires that originate from the minds of law makers and are contained or formulated in legal regulations [12]. Law enforcement itself is divided into two types, namely preventive and repressive law enforcement. Preventive law enforcement can be interpreted as all efforts aimed at preventing violations of legal provisions from occurring. One example of preventive law enforcement is the socialization or counseling actions carried out by law enforcement officers and the government regarding applicable legal provisions and what should and should not be done. On the other hand, repressive law enforcement is an effort carried out after a violation of the

law has occurred, so that in general its nature is a form of handling the actions and consequences that occur and are actually undesirable due to the occurrence of a violation [12]. One form of repressive law enforcement is reflected in the existence of regulations and the imposition of sanctions that have been regulated in statutory provisions as part of the law.

Based on this, it can be understood that sanctions are an important part of the body of legislation [13]. This causes the provisions of the UUPR jo. UUCK as the main legal basis for spatial planning regulations in Indonesia, also regulates provisions on sanctions, even including them as one of the instruments for controlling spatial utilization. As mentioned in the introduction, provisions regarding further sanctions are also regulated in Government Regulation Number 21/2021 and Regulation of the Minister of ATR/BPN Number 21/2021. Examining the provisions of Article 148 letter d jo. Article 188 of PP Number 21/2021, in the context of controlling spatial utilization, the sanctions referred to are actually limited to administrative sanctions. The selection of administrative sanctions as the only type of sanction included in controlling spatial utilization does not mean that the UUPR jo. UUCK does not accommodate other types of sanctions. The provisions of Articles 69 to 74 of the UUPR jo. UUCK clearly regulate the existence of criminal sanctions that can also be imposed on several forms of violations of spatial utilization.

The regulation of administrative sanctions as a type of sanction in the control instrument, while in fact the UUPR jo. UUCK still regulates criminal sanctions, is not without reason. There are at least two reasons that can underlie it: first, there is harmony between the nature of administrative sanctions in general and the objectives of controlling spatial utilization. In general, the nature of administrative sanctions is reparatory, which means the existence of administrative sanctions is aimed at restoring conditions to their original state before the violation occurred. Therefore, the imposition of administrative sanctions is actually aimed at the act of violation and not at the subject or perpetrator of the violation [13]. The nature of administrative sanctions that seek to restore conditions to their original state is in fact in line with the objectives of controlling spatial utilization as stipulated in the explanation of Article 35 of the UUPR jo. UUCK, namely that spatial utilization is carried out in accordance with the previously established Spatial Plan (RTR). By imposing administrative sanctions for the occurrence of a violation, it will certainly have an impact on the existence of conditions where space can be returned to its original condition, namely a condition that is in accordance with the Spatial Plan (RTR) that was determined before the violation occurred. The second reason is the existence of the division of spatial planning law which is essentially within the field of state administrative law which is part of public law and regulates the relationship and actions of the government towards its community. Based on this, administrative sanctions as an instrument for controlling the use of space are indeed necessary, considering that one of the characteristics of administrative sanctions compared to other types of sanctions such as criminal sanctions is that administrative sanctions can be imposed directly by the government on members of the public who violate without the intermediary of a third party such as a judicial body or law enforcement officers. This is possible considering that the use of administrative sanctions is a form of implementing the government's authority itself [14].

In general, administrative sanctions consist of several types, namely bestuurdwang, dwangsom, withdrawal of favorable state administrative decisions (KTUN), and also administrative fines [14]. In its development in more specific legal provisions within the scope of administrative law, there is an development in the naming and types of

sanctions included in administrative sanctions. For example, in the field of spatial planning, types of administrative sanctions consist of written warnings, administrative fines, temporary suspension of public services, temporary suspension of activities, closure of locations, revocation of KKPR, cancellation of KKPR, restoration of spatial functions, and demolition of buildings (vide Article 195 of PP Number 21/2021). In fact, if we examine each form of sanction again, it is actually still related to the general form of administrative sanctions. Such as sanctions for the temporary suspension of public services or activities, sanctions for closing locations, demolition of buildings and restoration of spatial functions, which can be qualified as types of administrative sanctions in the form of bestuurdwang, considering the nature and purpose of these sanctions based on Articles 157 to 159 and Articles 162 to 163 of the Minister of ATR/BPN Regulation Number 21/2021 in line with bestuurdwang sanctions or what is commonly referred to as government coercion, which is basically a sanction where the government or other parties on behalf of the government can take real action to move, empty, obstruct or any action that is actually intended to restore to its original state what has been or is being done that is contrary to the obligations stipulated in the provisions of laws and regulations [14]. However, there are more specific implementation techniques for each of these sanctions compared to the general requirements and techniques of bestuurdwang, such as the provision of a time period for implementing sanctions for restoring spatial functions for 30 days from the issuance of the decision to restore spatial functions by the government.

Regarding the sanction of revocation or cancellation of KKPR, it can be qualified as a form of sanction for the withdrawal of a favorable KTUN. This is considering that there are two circumstances that can cause a favorable KTUN to be withdrawn: first, the party receiving the KTUN does not comply with the terms or provisions of the laws and regulations related to the KTUN or second, there is a discrepancy in the KTUN issuance procedure, especially on the part of the KTUN applicant, such as providing inaccurate or incomplete data, which if the data is correct, the decision will be different (such as the rejection of the application for issuance of a decision). Based on these two conditions, the revocation of KKPR based on Article 160 of the Regulation of the Minister of ATR/BPN Number 21/2021 can be included in the first reason for the withdrawal of KTUN, while the cancellation of KKPR based on Article 161 of the Regulation of the Minister of ATR/BPN Number 21/2021 can also be included in the sanction for the withdrawal of KTUN based on the second reason. Regarding the existence of written warning sanctions, it is not entirely appropriate to qualify them as sanctions, considering that the essence of a written warning is only a statement and notification that a violation has been committed [15], so that the existence of a written warning is not in accordance with the purpose of imposing sanctions in general or the purpose of imposing administrative sanctions specifically. The imposition of such sanctions is certainly given in the event of a violation of spatial utilization. Specifically, the provisions of Articles 189, 190 and 192 of PP Number 21/2021 regulate acts of violation of spatial utilization that can be subject to administrative sanctions, which are also explained and regulated again in Article 134 of Permen ATR/BPN Number 21/2021. These actions include not complying with the provisions of spatial utilization in the RTR, not complying with the RTR which results in changes in the function of the space, and obstructing access to areas declared as public property by the provisions of laws and regulations. Concretely, acts that do not comply with the provisions of the RTR, whether they do not change the function of space or do change the function of space, based on Article 191 of PP Number 21/2021 consist of 2 acts, namely space utilization activities carried out without having a KKPR and/or space utilization

activities that do not comply with the provisions in the substance of the KKPR. Whether or not there is a change in the function of space is carried out through a spatial audit first, in accordance with the provisions of Article 189 paragraph (2) of PP Number 21/2021.

The presence of administrative sanctions as an instrument for controlling spatial utilization, which carries a significant mission to ensure that spatial utilization complies with the existing Spatial Plan (RTR) and even restores conditions to their original state prior to the violation. This naturally leads to the prohibition of arbitrary implementation of sanctions for any violation of spatial utilization. Therefore, in addition to regulating the types of sanctions and the types of violations that may be subject to sanctions, the provisions of laws and regulations in the field of spatial planning also regulate various matters that must be considered in imposing administrative sanctions, such as the basis or source for imposing sanctions on spatial utilization, the criteria for imposing administrative sanctions, and the procedures for imposing administrative sanctions (Article 151 of the Regulation of the Minister of ATR/BPN Number 21/2021). Through these legal provisions, it can be understood that the imposition of administrative sanctions can be carried out in three ways: directly, gradually, and cumulatively. Of the 3 procedures for imposing sanctions, the imposition of cumulative sanctions is interesting for further study, considering that the provisions for imposing cumulative sanctions allow for the imposition of more than one type of administrative sanction in one imposition of sanctions on violators, so that it can be understood that the provisions of laws and regulations in the field of spatial planning, recognize the existence of cumulative internal sanctions, especially based on Article 151 paragraph (4) of the Minister of ATR/BPN Regulation Number 21/2021.

As mentioned in the beginning, although only administrative sanctions are directly recognized as part of the spatial utilization control instrument, the existence of criminal sanctions also still exists in spatial planning laws and regulations. Acts that can be subject to criminal sanctions are regulated in Articles 69 to 72 of the UUPR, however, after the UUCK came into effect, the provisions of Article 72 have been removed. Based on these legal regulations, specifically individuals or corporations that commit violations of spatial utilization in the form of actions that do not comply with the RTR or actions that do not comply with the provisions in the KKPR requirements that result in changes in the function of space, in addition to being subject to administrative sanctions, it is possible based on legal provisions to also be subject to criminal sanctions based on Articles 69 and 71 of the UUPR in conjunction with the UUCK, so that in this case, the provisions of laws and regulations in the field of spatial planning open up the possibility of imposing external cumulative sanctions between criminal sanctions and administrative sanctions limited to the form of violations of actions that do not comply with the RTR or actions that do not comply with the provisions in the KKPR requirements that result in changes in the function of space.

Regarding the two other forms of violations that can be subject to administrative sanctions, namely the act of not fulfilling the provisions of spatial utilization in the RTR without any impact on changing the function of the space and the act of obstructing access to areas that are public property, cannot be subject to external cumulative criminal sanctions with administrative sanctions, because the actus reus that is criminalized in the provisions of criminal sanctions in the UUPR jo. UUCK, has removed the provisions on criminal penalties for parties who obstruct access to areas owned by the public in Article 72 of the UUPR since the enactment of the UUCK, and regarding the act of not fulfilling the provisions of spatial utilization must first result in an impact on changing the function of the space to be subject to criminal sanctions

based on Article 70 of the UUPR jo. UUCK. Therefore, acts that are criminalized and can be subject to criminal sanctions based on Article 70 can only be subject to criminal sanctions without being cumulative with administrative sanctions. In particular, the provisions of Article 73 of the UUPR jo. UUCK cannot be cumulative with administrative sanctions as an instrument for controlling spatial planning, because the provisions of Article 73 of the UUPR jo. The UUCK specifically applies to government officials who commit violations, whereas Article 129 of the ATR/BPN Regulation No. 21/2021 stipulates that administrative sanctions stipulated in the spatial planning law can only be imposed on individuals who violate spatial utilization. According to the provisions of the ATR/BPN Regulation No. 21/2021, as well as the Government Regulation and the UUPR, "persons" are limited to individuals and corporations, thus not including government officials.

3.2. Violations of the Double Jeopardy Principle in the Regulation of the Imposition of Cumulative External Sanctions for Violations of Space Utilization

A statutory provision, including in the field of administrative law, often accommodates not only one type of sanction, but several types of sanctions within a single statutory provision that will later be applied cumulatively.[16] This is what is then called the imposition of cumulative external sanctions. In practice, even the substance of statutory provisions also presents several forms of sanctions within the same type that can be combined, which is called cumulative internal sanctions. The presence of regulations on the imposition of cumulative sanctions both internally and externally also applies to violations of spatial utilization regulated in the UUPR jo. UUCK and related laws and regulations in the field of spatial planning. Regarding the resolution of violation cases where there are options for resolving several types of sanctions, this will certainly lead to the problem of double jeopardy as the definition has been touched upon in the initial part of this writing.

Regarding external cumulation, in general, many previous studies, including research conducted by Nina Herlina, stated that the application of cumulation of external sanctions such as criminal and administrative sanctions does not violate the principle of ne bis in idem or double jeopardy. This is based on the understanding that the two types of sanctions have different natures and objectives [17], considering that the imposition of a new sanction can be said to be double jeopardy if two or more sanctions of the same nature are imposed on the same act. However, in its development, there has been a development in thinking regarding the nature and purpose of criminal and administrative sanctions. Criminal sanctions which were initially always seen as sanctions of a punitive nature (condemnatoir/punitive) and have strong and different natures and characteristics from other types of sanctions so that they are considered to have special characteristics compared to other sanctions, then experienced developments, where criminal sanctions are not always punitive and repressive and focused on causing misery to the perpetrator, but also prevention [10] and focus on the recovery that occurs which we then know as the existence of restorative justice efforts in the criminal process. On the other hand, administrative sanctions which are always considered as sanctions aimed at restoring the situation (reparatory), have also developed and adopted punitive/condemnatory nuances, so that administrative sanctions have two characteristics, namely reparatory nature such as bestuurdwang and dwangsom and condemnatory nature such as administrative fines [14]. There are even experts such as Ten Berge who also qualify administrative sanctions as regressive nature, namely sanctions applied as a reaction to non-compliance with the provisions contained in decisions issued by the government. The nature of this regressive sanction

is contained in the form of administrative sanctions, namely the withdrawal of favorable KTUN. However, basically the nature of this regressive sanction is the same as reparatory sanctions in administrative sanctions, because the purpose of regressive sanctions is to restore conditions to their original state before the violation occurred, so that the nature of these two sanctions can be said to be the same. The difference only lies in that reparatory administrative sanctions such as bestuurdwang and dwangsom arise from violations of laws and regulations in general, while regressive sanctions arise from violations of provisions in a decision [14].

Through the development of the concept and nature of these two types of sanctions, it certainly provides an understanding that not all forms of administrative and criminal sanctions can be accumulated externally immediately. These two types of sanctions are included in different legal regimes and are even imposed with different mechanisms, because criminal sanctions must be imposed within the scope of the judicial process, while administrative sanctions are part of the bestuuren so that the government has the authority to directly impose them on violators and not through the judicial body [18]. However, it is important to remember that the principle of double jeopardy focuses on the nature and purpose of sanctions that must be different, not just on the different legal regimes that cover these types of sanctions. In this regard, when examining the provisions of Articles 69 and 71 of the UUPR jo. UUCK, the criminal sanctions that can be imposed for violations based on these two articles are imprisonment and fines. The use of the word "and" in these provisions clearly indicates the internal cumulation nature of the crime, where imprisonment and fines must both be applied to the violation. On the other hand, considering that it is possible to carry out external cumulation with administrative sanctions for such violations, then the provision of external cumulation for violations of spatial utilization in the form of actions that do not comply with the RTR or KKPR requirements that result in changes in spatial function, has the potential to give rise to double law enforcement, thereby violating the principle of double jeopardy. This can occur if the administrative sanctions that are cumulated with criminal sanctions have a nature and purpose that are also punitive, for example, administrative fines based on Article 63 letter i of the UUPR jo. UUCK jo. Article 195 paragraph (1) letter b of PP Number 21/2021. Administrative fines have a punitive nature or burden the perpetrator from an economic perspective, which is different from dwangsom. Dwangsom is a form of administrative sanction that aims to encourage the perpetrator to change their circumstances according to the time period given by the government. This also serves as a critical note for the provisions of Article 156 paragraph (3) of the Minister of ATR/BPN Regulation Number 21/2021 which is not appropriate in formulating progressive fines, so that these provisions conflict with the concept of dwangsom. Therefore, if administrative fines are combined with criminal penalties in the form of fines as stipulated in Articles 69 and 71 of the UUPR in conjunction with the UUCK, which also impose economic penalties on perpetrators and must be implemented in conjunction with imprisonment, this could potentially violate the principle of double jeopardy.

In this regard, it is certainly necessary to consider a solution so that law enforcement carried out on violators of spatial utilization still pays attention to human rights (HAM). This is important because although it remains focused on providing maximum efforts in eradicating violations of spatial utilization through cumulative sanctions, Indonesia as a state of law is a country that is committed to upholding and respecting human rights [19]. A solution that can be applied to this problem is to reformulate legal provisions. The first reformulation of provisions is related to the threat of criminal sanctions of imprisonment and fines in Articles 69 and 71 of the UUPR jo. UUCK alternatively by

using the word "or" compared to the internal cumulative system using the word "and". This is intended so that in imposing sanctions for actions not complying with the RTR or actions not complying with the provisions in the KKPR requirements that result in changes in the function of space that may be subject to external cumulative sanctions, there is no violation of the principle of double jeopardy. In its implementation, if the government has imposed administrative sanctions, then law enforcement officials, including judges as decision makers, can only apply criminal sanctions and do not need to impose criminal fines, because the formulation of the threat of criminal sanctions regulated is already alternative and not cumulative as now. This is important to do considering that administrative fines, which have an economic condemnatory nature on the violators, have been imposed by the government, so that the imposition of criminal fines will violate the principle of double jeopardy if the imposition of criminal fines is also imposed on the violators. If the imposition of administrative fines alone is deemed insufficient to cause economic misery to violators, then the solution is not to regulate that violators are again subject to criminal fines, but should be regulated in the provisions of laws and regulations regarding the reference amount of fines that can be imposed on violators with certain criteria. For example, by regulating the amount of fines based on the percentage of the amount of spatial function that has changed and is impacted due to the violators' actions that do not comply with the RTR and KKPR.

The second reformulation of legal provisions is related to clearly regulating the terms and conditions or limitations of changes in spatial functions that can be subject to cumulative external sanctions, or simply administrative sanctions alone. This is important because, in essence, criminal law enforcement is an ultimum remedium law enforcement, so it is applied as a last resort if other types of sanctions, including administrative sanctions, have not been able to achieve the goal of restoring the community's condition in the event of a violation. [18]. Clear limits need to be applied, for example by regulating the type or percentage of changes in spatial functions from the results of spatial audits whose actions can be subject to and resolved with the application of administrative sanctions alone or can be subject to external accumulation with criminal sanctions. This separation and limits are important so that the goal of imposing sanctions to restore the conditions before the violation occurred is still achieved and on the other hand, it can still provide punishment to violators, and on the other hand, there is no backlog of case settlements in court, considering that the imposition of criminal sanctions must go through the judicial process.

Considering that the reformulation of legal provisions requires time, then as long as the current legal provisions are still used and are still in force, the imposition of cumulative external sanctions on spatial planning must pay attention to the provisions of the double jeopardy principle. In this case, the government can apply other types of administrative sanctions either directly or internally cumulatively such as accumulating sanctions for revocation of KKPR with sanctions for restoration of spatial function for actions that do not comply with the provisions in the KKPR requirements that result in changes in spatial function, in accordance with the provisions of the form of administrative sanctions in Article 63 of the UUPR jo. UUCK and its implementing provisions, so that there is no double law enforcement if the violation action is later also applied criminal sanctions based on Articles 69 and 71 of the UUPR jo. UUCK by APH. Through the implementation of these two solutions, it is hoped that potential violations of the double jeopardy principle in the regulation of the imposition of cumulative external sanctions on violations of spatial utilization can be resolved and even prevented, so that violations of spatial utilization can be handled optimally, so that the quality of national territorial space can be maintained sustainably to realize general

welfare and social justice as mandated by the 1945 Constitution of the Republic of Indonesia.

4. CONCLUSION

The legal provisions of spatial planning through the UUPR jo. UUCK and its implementing regulations provide legitimacy for the imposition of administrative sanctions as part of the instrument for controlling spatial utilization to be accumulated externally with criminal sanctions. This applies specifically to violations of spatial utilization in the form of actions that do not comply with the RTR or actions that do not comply with the provisions in the KKPR requirements that result in changes in spatial function. In general, the imposition of external accumulation for administrative and criminal sanctions is considered not to violate the principle of double jeopardy, because both are considered to be in different legal regimes, have different natures and mechanisms, however, in its development, the nature of these two types of sanctions has undergone conceptual development, especially for administrative sanctions there is an understanding that there are forms of administrative sanctions that are also condemnatory in nature, such as administrative fines. In this regard, the regulation of the imposition of external cumulative sanctions regulated in the legal regulations of spatial planning has the potential to violate the principle of double jeopardy, if the use of criminal sanctions of imprisonment and fines regulated internally cumulatively in Articles 69 and 71 of the UUPR jo. UUCK is accumulated externally with condemnatory administrative sanctions such as administrative fines in accordance with the provisions of Article 63 of the UUPR jo. The UUCK and its implementing regulations. Therefore, a reformulation of the legal provisions on criminal sanctions in the UUPR jo. UUCK is necessary. This reformulation includes affirming the percentage of spatial functions that can be subject to criminal sanctions, considering the existence of criminal sanctions as the ultimum remedium and the imposition of sanctions that adhere to the principle of double jeopardy.

5. WORDS OF GRATITUDE

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