LEGAL IMPACT OF WIRETAPPING USING GPS TRACKERS ON CARS
FIDUCIARY GUARANTEE OBJECTS BY CONSUMER FINANCE COMPANIES

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ABSTRACT

Purpose: The purpose of this research is to reviewing and analyzing the legal consequences for the act of wiretapping using a GPS Tracker without authority by consumer finance companies on cars subject to fiduciary collateral.

Method: The research methodology normative legal research, the data required in this research is primary data in the form of statutory regulations and secondary data in the form of books, scientific papers and other supporting documents that have relevance to the research being conducted. The data analysis techniques used in the research is by using a qualitative descriptive analysis method.

Results and conclusion: Based on a literature review and regulatory analysis, this research identifies the act of wiretapping by installing a GPS Tracker carried out by Consumer Finance Companies on fiduciary collateral objects that are used by consumers without the consumer's knowledge, which if the consumer finds out later, then of course this will cause problems because consumers feel their privacy is disturbed. Due to this action, consumers can submit demands/lawsuits to BPSK in each district/city, even though in reality not all regions have BPSK institutions to resolve disputes between consumers and consumer finance companies due to lack of government attention.

Research implications: The findings of this research have implications for policy makers, the business world, and other stakeholders in understanding the act of wiretapping by installing GPS Trackers carried out by Consumer Finance Companies on fiduciary collateral objects that are used by consumers without the consumer's knowledge, which if the consumer later finds out, so of course this will cause problems because consumers feel their privacy is being disturbed. The potential solution to this action is that consumers can submit demands/lawsuits to the BPSK located in each district/city.

Originality/value: This research contributes to the existing literature by focusing on the intersection between consumers and consumer financing companies regarding the fiduciary security object of interception of GPS Tracker installations used by consumers without the consumer's knowledge.

Keywords: Tapping, Fiduciary Guarantee, Finance Companies, GPS Trackers, Regulations.

IMPACTO JURÍDICO DA ESCUTA TELEFÔNICA USANDO RASTREADORES GPS EM OBJETOS DE GARANTIA FIDUCIÁRIA DE VEÍCULOS POR EMPRESAS DE FINANCIAMENTO AO CONSUMIDOR

RESUMO

Objetivo: O objetivo desta pesquisa é revisar e analisar as consequências jurídicas do ato de escuta telefônica por meio de Rastreador GPS sem autorização por parte de financeiras de consumo em automóveis sujeitos a garantia fiduciária.

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**Método:** A metodología de pesquisa pesquisa jurídica normativa, os dados exigidos nesta pesquisa são dados primários na forma de regulamentos legais e dados secundários na forma de livros, artigos científicos e outros documentos de apoio que tenham relevância para a pesquisa que está sendo realizada. As técnicas de análise de dados utilizadas na pesquisa utilizam um método de análise descritiva qualitativa.

**Resultados e conclusão:** Com base em revisão de literatura e análise regulatória, esta pesquisa identifica o ato de escuta telefônica por meio da instalação de Rastreador GPS realizado por Empresas de Financiamento ao Consumo em objetos de garantia fiduciária que são utilizados pelos consumidores sem o conhecimento do consumidor, que caso o consumidor encontre mais tarde, então é claro que isso causará problemas porque os consumidores sentirão que a sua privacidade está perturbada. Devido a esta ação, os consumidores podem apresentar demandas/ações judiciais ao BPSK em cada distrito/cidade, embora na realidade nem todas as regiões tenham instituições BPSK para resolver disputas entre consumidores e empresas de financiamento ao consumo devido à falta de atenção do governo.

**Implicações da pesquisa:** As descobertas desta pesquisa têm implicações para os formuladores de políticas, o mundo dos negócios e outras partes interessadas na compreensão do ato de escuta telefônica por meio da instalação de rastreadores GPS realizados por empresas de financiamento ao consumo em objetos de garantia fiduciária que são usados pelos consumidores sem o conhecimento do consumidor, que caso o consumidor encontre mais tarde, então é claro que isso causará problemas porque os consumidores sentirão que a sua privacidade está perturbada. Devido a esta ação, os consumidores podem apresentar demandas/ações judiciais ao BPSK localizado em cada distrito/cidade.

**Originalidade/valor:** Esta pesquisa contribui com a literatura existente ao focar na intersecção entre consumidores e empresas de financiamento ao consumo no que diz respeito ao objeto de segurança fiduciária de interceptação de instalações de Rastreadores GPS utilizados pelos consumidores sem o conhecimento do consumidor.

**Palavras-chave:** Escutas, Garantia Fiduciária, Sociedades Financeiras, Rastreadores GPS, Regulamentos.

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**IMPACTO JURÍDICO DE LA INTERVENCIÓN TELEFÓNICA MEDIANTE RASTREADORES GPS EN LOS VEHÍCULOS OBJETOS DE GARANTÍA FIDUCIARIA POR PARTE DE LAS EMPRESAS DE FINANCIACIÓN DE LOS CONSUMIDORES**

**RESUMEN**

**Objetivo:** El objetivo de esta investigación es revisar y analizar las consecuencias legales del acto de interceptación telefónica mediante GPS Tracker sin autorización por parte de los consumidores de automóviles sujetos a garantía fiduciaria.

**Método:** Metodología de la investigación investigación jurídica normativa, los datos requeridos en esta investigación son datos primarios en forma de normativa legal y datos secundarios en forma de libros, artículos científicos y otros documentos de apoyo que tienen relevancia para la investigación que se está realizando. Las técnicas de análisis de datos utilizadas en la investigación utilizan un método cualitativo de análisis descriptivo.

**Resultados y conclusión:** Con base en la revisión bibliográfica y el análisis regulatorio, esta investigación identifica el acto de la intervención telefónica mediante la instalación del GPS Tracker realizado por las Empresas Financieras de Consumo sobre objetos de garantía de confianza que son utilizados por los consumidores sin el conocimiento del consumidor, lo cual en caso de que el consumidor lo encuentre más adelante, entonces es claro que esto causará problemas porque los consumidores sentirán que su privacidad se ve perturbada. Debido a esta acción, los consumidores pueden presentar reclamaciones/demandas ante BPSK en cada distrito/ciudad, aunque en realidad no todas las regiones tienen instituciones de BPSK para resolver disputas entre consumidores y empresas financieras de consumo debido a la falta de atención del gobierno.

**Implicaciones de la Investigación:** Los hallazgos de esta investigación tienen implicaciones para los responsables de las políticas, el mundo de los negocios y otras partes interesadas en la comprensión del acto de interceptación telefónica mediante la instalación de rastreadores GPS hechos por empresas financieras de consumo en objetos de garantía fiduciaria que son utilizados por los consumidores sin conocimiento del consumidor. Sin embargo, si el consumidor se entera más tarde, es claro que esto causará problemas porque los consumidores sienten que su privacidad está siendo perturbada, y la solución potencial a esta acción es que los consumidores pueden presentar reclamaciones / demandas ante la BPSK ubicada en cada distrito / ciudad.
1 INTRODUCTION

As a source of alternative non-bank financing, a financing institution is a business entity that has an important role in supporting the growth of the national economy, in the form of providing funds or capital goods without withdrawing funds directly from the public in the form of current accounts, deposits, savings and letters. ability to pay.4

Decree of the President of the Republic of Indonesia No. 61 Years 1988 expanding the business fields of financial institutions into 6 (six) business fields, namely leasing, venture capital, factoring, consumer finance, credit cards and letter trading, valuable (securities company).5 However, through the Decree of the Minister of Finance of the Republic of Indonesia no.448/KMK.017/2000, regarding Financing Companies, financing institution businesses that can be carried out through several businesses, namely leasing, factoring, credit card business and consumer financing. This is because venture capital activities and securities trading have different characteristics from the four businesses of financing institutions as mentioned above.6

Technological developments influence the sophistication and diversity of production produced by producing companies. This is directly proportional to the desire of the consumer community to own this product even though the consumer community has financial limitations to buy it, especially for those in the middle to lower economic groups. The presence of financing institutions is at least an option for the community to meet their needs for consumer goods. Previously, people had difficulty buying these necessities in cash, but with consumer financing, these difficulties can be overcome.7

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4 Sunaryo, Law on Financing Institutions, (Jakarta: Sinar Graphics), 2017, p. 2
5 Ibid, p. 6
6 Munir Fuady, Law Concerning Financing, (Bandung: PT. Citra Aditya Bakti) 2014, p. 3
7 Sunaryo, Op.cit, p. 95
Consumer finance company which is one of the business sectors of a financing institution whose business activity is the provision of funds to consumers for the purchase of consumer goods, the return of which is made in regular installments by the consumer. The business carried out by this consumer finance company certainly has risks because the repayment is made periodically by the consumer in installments to the finance company and the quality of these installments is greatly influenced by the consumer's economic capabilities. To ensure the smoothness and security of their business, consumer finance companies determine requirements and procedures for consumers to fulfill so that consumers can get the funds they need through consumer financing.  

8 Article 1 number 2 Law no. 8 of 1999 concerning Consumer Protection, hereinafter referred to as UUPK, states that: "A consumer is every person who uses goods and/or services available in society, whether for the benefit of themselves, their family, other people or other living creatures and not for trading."

Legal relationship between finance companies with the public (consumers) is the relationship between debtor and creditor, bound by a financing agreement. The position of the finance company as a creditor or party who owes money and consumers in the capacity of debtor or party who owes money. The ties in the agreement will give rise to the rights and obligations of the parties who make them, and it is certain that fulfilling these rights and obligations is the desire of the parties. The same thing also applies to agreements between finance companies as creditors and consumers as debtors. What is the right of one party is an obligation for the other party.

According to Adrian Sutedi, a contract (agreement) is a condition where one party makes a promise to another party or conditions where two parties make a promise regarding the implementation of certain things. The agreement (legal relationship) between the two is born because of a contract that is made which contains the rights and obligations of the contracting parties, and must be obeyed. Even though this contract only applies to the maker, this contract functions like law for the maker. Actors who violate this contract may be subject to certain sanctions. As a form of coercion against a contract, it can be done through a court order.

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8 Ibid, p. 108
9 Black's Law Dictionary interprets "debtor" as "One who owes a debt; he who may be compelled to pay a claim or demand", if translated into Indonesian it means a person who has a debt; a person who can be forced to pay a bill or demand" (definition of debtor in H. Eries Jonifanto & Andika Wijaya, Professional Competence of Curator & Pengurus, Guide to Becoming a Professional and Independent Curator & Administrator (Jakarta: Sinar Graphics), 2018, p. 97
10 Big Dictionary Indonesian defines the word "Creditor" as one who owes money. (the definition of creditor in H. Eries Jonifanto & Andika Wijaya, Professional Competencies for Curators & Administrators, Guide to Becoming a Professional and Independent Curator & Administrator (Jakarta: Sinar Graphics), 2018, p. 97
11 Sutedi Adrian, Mining Law, (Jakarta: Sinar Grafa), 2012, p. 215
same thing was also conveyed by William T. Major, that a contract that has been made has created rights and obligations for the party who made it and not for anyone else. This is quite reasonable because in principle parties who are outside the contract cannot file claims or otherwise be sued regarding the existence of the contract.\(^\text{12}\)

The consequence of an agreement or contract is that it gives rise to the rights and obligations of the parties. The rights of the parties must be fulfilled while the obligations of the parties must also be fulfilled. If one party does not fulfill its obligations as it should, it will create a conflict with the interests of the other party.

Collins Turpin states that because contracts contain the rights and obligations of the parties in implementing them, in reality, contracts are something that is often practiced routinely (routine practice). In current developments, contracts are not only made by individual parties in the private sector but have been made generally in the public domain (public utility) by the government.\(^\text{13}\)

The agreement or contract made is actually based on the agreement between the parties. With the birth of the agreement in question, an agreement has been created for the parties who make it. This bond is realized by the existence of certain obligations for the parties, and their implementation is a necessity. If the obligations of one party are not carried out, it will result in losses for the other party because their rights are not obtained. The birth of an agreement because the agreement made is nothing other than a meeting of the promises stated by the parties, this is as regulated in the provisions of Article 1233 BW.\(^\text{14}\)

According to Yohanes Sogar Siamora, one of the parties who breaks a promise because they do not carry out their achievements is if the party does not carry out its obligations as stated in the agreement that has been made. On the other hand, it is not an act of default if the party is not involved in the contractual relationship that has been made.\(^\text{15}\)

Default is a term used in civil law as regulated in Book III BW, which means broken promise. The basis for the act of default is the existence of an agreement or agreement, whether oral or written, whether made in the form of an authentic deed or by private agreement. Without an agreement, the actions of one of the parties cannot be qualified as a breach of contract but

\(^{12}\) William T. Major, Contract Law, (Bandung: Nuansa Scholar), 2018, p. 223

\(^{13}\) Yahman, Easy Ways to Understand Default and Fraud in Commercial Contract Relationships, (Jakarta: Prenamedia Group), 2016, p. 6

\(^{14}\) Ibid, p. 7

\(^{15}\) Ibid, p. 16
rather an unlawful act (onrechtmatigdaad). Losses experienced by certain parties due to acts of breach of contract can be sued through civil lawsuits in court.\textsuperscript{16}

The occurrence of bad credit can be caused by creditor (bank) or debtor (customer) factors. Non-compliance by banks with regulations governing the granting of credit, ease of banks in granting credit, lack of clear eligibility standards in credit applications, concentration of credit funds only in certain groups of debtors or financing in business sectors that have high risks.\textsuperscript{17} Meanwhile, the factors causing bad credit by debtors, according to Sutojo, are:

1. Deterioration of the company's business conditions, which is caused by a decline in general economic conditions and/or the business fields in which they operate;
2. There is mismanagement in the management of the company's business, or due to lack of experience in the business field they are handling;
3. family problems, for example, divorce, death, prolonged illness, or waste of funds by one or several members of the debtor's family;
4. Failure of debtors in their other business or company sectors;
5. Serious financial liquidity difficulties;
6. The emergence of events beyond the debtor's control, for example war and natural disasters;
7. The bad character of the debtor (which from the beginning had planned would not return credit).\textsuperscript{18}

One of several reasons that cause bad credit to occur is due to the debtor's actions as mentioned above, one of which is due to the bad character of the debtor who from the start had bad intentions in not fulfilling his achievements. Concretely, the debtor's bad action was to transfer the object of the fiduciary guarantee to another party without the knowledge of the finance company as the creditor.

The reason for transferring the car which is the object of the fiduciary guarantee is more due to economic reasons, however there are also several other reasons. The reasons for the transfer are:\textsuperscript{19}

1. Due to economic factors (this reason is a frequently encountered reason);
2. Because the location of residence changes, making it easier for debtors to trace their whereabouts;

\textsuperscript{16} Ibid, p. 17  
\textsuperscript{17} Ismayani, Legal Actions Taken by Debtors on Bad Motorcycle Loans, Doktrina: Journal of Law, 1(1) June 2018, p. 34  
\textsuperscript{18} Ibid, p.1. 38  
\textsuperscript{19} Interview with Branch Head of Consumer Finance Company "x", November 6 2023
3. A small down payment, this condition means that the debtor does not feel burdened when transferring the collateral object, there are even debtors whose whereabouts have been unknown for only 1 (one) month of customer credit;

4. There is provocation from certain parties, for example certain mass organizations promising to help them if the credit goes bad.

In fact, the transfer of fiduciary collateral objects by debtors without the knowledge of the finance company is a criminal act, as regulated in the provisions of Article 23 paragraph (2) of the Fiduciary Guarantee Law, hereinafter referred to as UUJF, which states that:

"The Fiduciary Giver is prohibited from transferring, pawning or renting to another party objects that are the object of Fiduciary Guarantee which are not inventory items, except with prior written approval from the Fiduciary Recipient." The criminal threat as regulated in Article 36 of the Fiduciary Guarantee Law is imprisonment for 2 (two) years and a maximum fine of Rp. 50,000,000,- (fifty million rupiah).

The criminal threat in the above provisions apparently does not deter "naughty" debtors from transferring the car which is the object of fiduciary collateral to another party without the knowledge of the consumer finance company. As a result of the debtor's actions, financing company "x" as the creditor took anticipatory steps by installing a GPS Tracker on each car as a collateral object that would be agreed to as a fiduciary guarantee. Even though the installation action is recognized by the financing company "x" as wrong, this action is considered to be an easy solution to trace the whereabouts of the object if it turns out that at a later date the collateral object is transferred by the debtor to another party during the installment period.20

2 METHODS

2.1 TYPES OF RESEARCH

The type of research used in this research is normative legal research.

20Ibid
2.2 DATA TYPE

The data required in this research is primary data in the form of statutory regulations and secondary data in the form of books, scientific papers and other supporting documents that are relevant to the research being conducted.

2.3 DATA ANALYSIS

The data analysis technique used in this research is the qualitative descriptive analysis method.

3 RESULTS AND DISCUSSION

3.1 UNDERSTANDING TAPPING

**Wiretapping** (tapping) according to Diffie, began around 1876 when the telephone was invented. This discovery makes communication between individuals more intense even over long distances. Very limited wiretapping was only implemented by the police in the United States around the 1890s, until around 1919 the production, sale and transportation of alcoholic beverages was prohibited. With this prohibition. There has been an increase in illicit trade and smuggling of alcoholic beverages into the United States. So wiretapping is one of the methods used by law enforcement officials to uncover these crimes.\(^{21}\)

The public at large only started to highlight this act of wiretapping when a wiretapping incident occurred which caused a stir in the United States when one of the candidates for President of the United States named Richard Nixon carried out wiretapping on his political opponents at the Hotel **Watergate** in the 1970s.\(^{22}\)

Even though Article 23 paragraph (2) UUJF prohibits the transfer of fiduciary collateral objects to other parties without permission from the finance company as the fiduciary recipient, often “naughty” debtors still transfer the collateral without the finance company's knowledge. Anticipating this, financing company "x" as the creditor took the initiative to install a GPS tracker on every collateral object that would be pledged as a fiduciary guarantee, even though

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\(^{21}\) Reda Manthovani, Tapping vs. Privacy (Jakarta : Buana Ilmu Popular), 2015, p. 17

\(^{22}\) Brief Biography of Richard Milhous Nixon in Kristian and Yopi Gunawan, A Little About Wiretapping in Positive Law in Indonesia, (Bandung : Nuansa Aulia) 2013, pm 21
the installation was recognized by financing company "x" as wrong. However, this action is considered an easy solution to trace the whereabouts of the object of fiduciary collateral if it turns out that the collateral is later transferred by the debtor to another party.23

With this action this makes it possible to provide benefits to consumer finance companies because it is easy to track the whereabouts of the car as the object of collateral, however, this is a form of violation of the privacy of consumers who are in the position of debtor because their activities can be known by creditors if they use the object of collateral.

Explanation of the provisions of Article 31 Paragraph (1) of Law no. 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, hereinafter referred to as the ITE Law, defines wiretapping as follows:

What is meant by "interception or wiretapping" is the activity of listening, recording, deflecting, changing, inhibiting, and/or recording the transmission of Electronic Information and/or Electronic Documents that are not of a public nature, whether using communication cable networks or wireless networks, such as electromagnetic radiation or radio frequency.

In the explanation of Article 75 letter i of Law Number 35 of 2009 concerning Narcotics, hereinafter referred to as the Narcotics Law, it is stated that:

Included in wiretapping is electronic monitoring by means of, among others:

a. installation of transmitters in the target room/room to hear/record all conversations (bugging);

b. installation of transmitters on cars/people/items whose whereabouts can be tracked (bird dog);

c. internet interception;

d. cloning pagers, short service delivery (SMS), and fax;

e. CCTV (Close Circuit Television);

f. suspect location tracker (direction finder).

Another method that is similar to wiretapping or interception which is implemented without using a telecommunications network such as wiretapping or interception is electronic surveillance which takes the form of bugging, GPS tracking, wide surveillance (video tapping), as a method for listening to (recording) information (secrets, conversations) other people intentionally without the person's knowledge in a telecommunications network. Bugging is a combination of a mini radio transmitter with a microphone with the use of a hidden listening device (covert listening device). According to Ghosh, bugging is almost the same as classic

23 Interview with Branch Head of Financing Company "X", November 6 2023
wiretapping, namely eavesdropping.\textsuperscript{24} Meanwhile, according to Makarim, eavesdropping is the act of listening to parties who are speaking verbally or orally. This action can be carried out using certain tools such as bugs and probalic microphones or can be done manually.\textsuperscript{25}

The movement of an object can be monitored on a computer screen by officers in the office in real time if using GPS technology, as explained by Dorothy J Glancy, as follows:\textsuperscript{26}

"Global Positioning System (GPS) devices used by law enforcement agencies are small, but usually larger than beepers. They contain not only a GPS satellite communication function that pinpoints the device's location. They also contain computerized recording devices or logs. Law enforcement agents attach a GPS device to underside of a vehicle, in a place where it will not be noticed. From then on the device automatically keeps a detailed itinerary of everywhere the vehicle travels and when and how long it remains at various locations. Later law enforcement agents remove the device and download the detailed itinerary of where and when the vehicle has traveled. Unlike beepers, GPS devices do not require continuous monitoring by a law enforcement agent."

\textit{GPS Tracking} or also called a GPS Tracker, is a tool used to track the position of a vehicle or car in real-time because the technology used is AVL (Automated Vehicle Locater). To determine the coordinates of certain observation objects which are then displayed in the form of a digital map, a combination of GSM and GPS technology is used. By combining a GPS receiver as a data acquisition tool and a computer as a data processor, mapping can be done quickly and accurately, which can be beneficial for tourism, industry, city planning, regional boundaries, and so on.\textsuperscript{27}

Many types of \textit{GPS tracker} which is sold freely on the market with a very affordable selling price range, namely just under Rp. 500,000 (five hundred thousand rupiah), making the use of this tool something that is not difficult to place as an object of fiduciary guarantee. The information that can be known and the controls that can be carried out by the user of this tool are as summarized by the author, as follows:\textsuperscript{28}

- Can control the vehicle just with voice commands;

\textsuperscript{24} Ghosh in Reda Manthovani, Op.cit, p. 22
\textsuperscript{25} \textit{Ibid}
\textsuperscript{26} \textit{Ibid}, p. 24
\textsuperscript{27} Supriyono, W. S Pranowo, S. Rawi, and B. Herunadi in Tuppal Pasaribu, et.al., Designing Tourist Attraction Applications in Toba Regency with the A* Algorithm Based on Mobile and GIS, Methotika: Scientific Journal of Informatics Engineering-ISSN: 2776-5792Vol. 2, no. 2, October2022, p. 71
\textsuperscript{28} Recommendations for Good and Accurate Car GPS Trackers | Best Car GPS Tracker Brands 2023, SSDhttps://www.youtube.com/watch?v=KoCkMLrApiQ
Can monitor the vehicle's location in real time with high accuracy, even every 10 seconds via SMS, application on a PC (Personal Computer) cell phone or other notifications;

- There is voice monitoring which hears and records sounds around the GPS device;
- Can provide a warning if the vehicle is moving too fast or experiencing interference;
- Can detect battery theft attempts;
- Can find out the vehicle's travel history and can find out previous activities;
- Can turn off the engine remotely;
- Can provide notifications about predetermined entry and exit area boundaries;
- Can cut off fuel and electricity supplies remotely.

With the various information that can be known from GPS Tracker which is placed on the object of fiduciary collateral, on the one hand it is profitable for the finance company but on the other hand it is clearly very detrimental for the debtor. By being able to track the whereabouts of the vehicle used by the debtor in real time, this means that the debtor's whereabouts can be known at any time when using the vehicle. The biggest disadvantage, apart from being able to know the whereabouts of the debtor, is that conversations that occur in the guaranteed motorbike taxi car which is equipped with this device can be known and can even be recorded, of course this action violates the most basic rights of consumers as debtors which should be protected.

If the GPS Tracker function as explained above is related to the definition of wiretapping as intended in the ITE Law and the Narcotics Law, then it can be concluded that installing a GPS Tracker on a car that is the object of fiduciary collateral is a form of wiretapping to find out the whereabouts of the car that is the object of fiduciary guarantee in real time and also can record conversations between car users.

3.2 RULES GOVERNING WIRETAPPING

3.2.1 Legal Reasons for Wiretapping

As an action that violates a person's privacy, interception/wiretapping can be justified if it is in accordance with international principles that limit such actions to human rights. These principles consist of legality, legitimate aim, necessity and proportionality, safeguards against illegitimate access and due process. These principles are used in handling lawsuit cases
regarding human rights violations related to State Surveillance and Interception by the Inter American Court of Human Rights (IACtHR) and the European Court of Human Rights (EctHR).  

3.2.1.1 Principle of Legality

This legality is related to the rules regarding wiretapping authority by certain law enforcement agencies and the procedures for implementing this authority. According to Mardjono Reksodiputro, interception is only carried out for serious crimes which are clearly regulated in law and there is a time limit for carrying it out, and must have written permission from certain institutions outside the institution that has the authority to carry out the interception.  

3.2.1.2 Principle of Legitimacy Aim

Wiretapping actions must be carried out fairly without discrimination based on race, skin color, gender, language, religion, politics, nationality and wealth or other status. And the rules made to carry out acts of wiretapping, interception and electronic surveillance on parties who have the authority to carry out these acts must be based on legitimate objectives for the legal purposes required by a democratic society.  

3.2.1.3 Necessity Principle

Implementation of interception, wiretapping and electronic surveillance measures only if the action is the only means of achieving a legitimate legal aim. And if there are several ways, then there are more ways to choose minor violation of human rights. And the legal regulations made by the state regarding the permissibility of interception, wiretapping and electronic surveillance must strictly limit these actions to legitimate purposes.  

Andi Hamzah explains this principle as follows:
a) The reasons and procedures for implementation must be in accordance with applicable regulations;

b) Based on existing facts and rationally, these actions need to be taken;

c) Carried out by authorized officials according to law;

d) This action does not have to be carried out even if the conditions have been fulfilled according to the law. This is done with the consideration of seeking and finding material truth through two filters:

- whether the action is permitted or not by law (rechtvaardigheid).
- If the action is legal according to law then the action is considered whether it is necessary to take it or not. (noodzakelijkheid).\(^\text{33}\)

3.2.1.4 Principles of Safeguards Against Illegitimate Access

This principle is necessary for interception for intelligence purposes. The law regulates sanctions for criminal acts. Apart from that, this is a form of external supervision of the interception authority. The implementation of this action, according to Mardjono Reksodiputro, must be based on written permission from another institution outside the institution authorized to carry out interception (for example, for intelligence purposes it can be carried out by the Minister of Defense and judges for law enforcement purposes) and the implementation of these actions is reported periodically as a manifestation of the principle of accountability.\(^\text{34}\)

3.2.1.5 Due Process Principle

Herbert L Packer develop the principles of this due process model. The due process model is likened by Herbert to an obstacle course (running with obstacles or hurdles). This principle applies prevention and reduces the level of error as much as possible in the criminal process.\(^\text{35}\) This process is more respectful of reality or fact-finding processes. To suppress and prevent errors from occurring due to the perception that there are still errors in the handling of a case, a stage is opened to test the relevant parties. For example, the opportunity to test the actions carried out by law enforcement officers by suspects/defendants through pre-trial

\(^{33}\) Andy Hamza in Reda Manthovani, Tapping vs. Privacy (Jakarta: Buana Ilmu Popular), 2015, p. 63

\(^{34}\) Mardjono Reksodiputro in Reda Manthovani, p. 64

\(^{35}\) Packer and Hebert L in Reda Manthovani, p. 64
proceedings so that each stage of the process carried out by law enforcement officers must go through obstacles to comply with the specified procedures.\textsuperscript{36}

The reasons for conducting an interception (tapping) are divided into 2 (two), namely:\textsuperscript{37}
- Wiretapping for intelligence purposes
- Wiretapping for law enforcement purposes

3.2.1.6 Wiretapping for Intelligence Purposes

The authority to wiretapping for intelligence purposes is given to BIN (State Intelligence Agency) based on the provisions of Article 31 of Law no. 17 of 2011 concerning State Intelligence, hereinafter referred to as the State Intelligence Law.

This authority is given for the reason that to support intelligence activities that act quickly, precisely and accurately, the State Intelligence Agency is given the authority to carry out wiretapping, examine the flow of funds, and extract information on every person related to activities of terrorism, separatism, espionage and sabotage that threaten security, sovereignty and safety of the Unitary State of the Republic of Indonesia.\textsuperscript{38}

3.2.1.7 Wiretapping for Law Enforcement Purposes

The authority for wiretapping for law enforcement purposes can be found in several statutory regulations, namely:

a) Law no. 48 of 2009 concerning Judicial Power,
   The authority for wiretapping in this law can be found in the provisions of Article 7 and its explanation. The provisions in this article give wiretapping authority to investigators in addition to carrying out inquiries and inquiries;

b) Law no. 18 of 2011 concerning Amendments to Law no. 22 of 2004 concerning the Judicial Commission;
   Article 20 paragraphs (3) and (4) in this law gives investigators the authority to wiretap at the request of the Judicial Commission to wiretap judges.

c) Law no. 31 of 1999 concerning Eradication of Corruption Crimes;

\textsuperscript{36} SubsideManthovani, p. 64
\textsuperscript{37} Ibid, p. 71
\textsuperscript{38} General Explanation of Law no. 17 of 2011 concerning State Intelligence
The authority to wiretap investigators can be found in the Explanation section of Article 26 of this law, in addition to carrying out investigations, prosecutions and examinations in court.

d) Law no. 19 of 2019 concerning the Second Amendment to Law no. 20 of 2002 concerning the Corruption Eradication Commission;

The provisions of Article 12 paragraph (1) of this law give the Corruption Eradication Commission the authority to conduct wiretapping;

e) Law no. 46 of 2009 concerning Corruption Crime Courts;

The authority to wiretap investigators in accordance with applicable law can be found in the provisions of Article 28 paragraph (1) of this law.

f) Law no. 8 of 2010 concerning Prevention and Eradication of Money Laundering

Article 44 paragraph (1) letter h of this law gives investigators the authority to conduct wiretapping based on recommendations from the PPATK (Financial Transaction Reports and Analysis Center);

g) Law no. 35 of 2009 concerning Narcotics;

In the provisions of Article 75 letter I of this law, wiretapping authority is given to BNN investigators or Indonesian police investigators related to the abuse and illicit trafficking of narcotics and narcotics precursors after sufficient initial evidence is provided. Meanwhile, Article 77 paragraphs (1), (2), (3), Article 78 paragraphs (1), (2) of this law regulates the wiretapping procedure, namely a maximum of 3 (three) months and only with the permission of the chairman of the District Court. and can be extended once for the same period;

In urgent situations and the investigator must carry out wiretapping, wiretapping can be carried out without prior written permission from the chairman of the district court, but within a maximum period of 1 x 24 (one time twenty four) hours the investigator must ask for written permission from the chairman of the district court;

h) Law no. 5 of 1997 concerning Psychotropics;

The authority to conduct wiretapping by the police can be found in the provisions of Article 55 Letter c and the explanation in this law. This authority is for a period of 30 (thirty) days for wiretapping based on a written order from the National Police Chief or an official appointed by him;

i) Law no. 36 of 1999 concerning Telecommunications;

Article 42 paragraph (2), gives authority to telecommunications service providers to record information sent and/or received by telecommunications service providers in the
criminal justice process (investigation, prosecution and trial), at the request of the
Attorney General and/or Chief of Police or at the request of investigators. certain
criminal acts;

Article 1 point 8 of this law states that Telecommunications Operators are companies,
cooperatives, Regional-Owned Enterprises (BUMD), State-Owned Enterprises
(BUMN), private business entities, government agencies and state defense and security
agencies;

j) Law no. UU no. 15 of 2003 concerning the Determination of Perpu No. 1 of 2002
concerning the Eradication of Criminal Acts of Terrorism;

Article 31 paragraph (1) letter b, and paragraph (2), provides that wiretapping authority is
given to investigators on the order of the Chairman of the District Court for a maximum
period of 1 (one) year;

k) Law no. 21 of 2007 concerning Eradication of the Crime of Human Trafficking

Article 31 paragraphs (1) and (2), provides that wiretapping authority is given to
investigators with the permission of the Chairman of the District Court for a maximum
period of 1 (one) year, on suspicion of preparation, planning and acts of human
trafficking;

l) Law Law no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning
Information and Electronic Transactions.

Article 31 paragraphs (1), (2), contains the prohibition on wiretapping, with exceptions
as stipulated in Article 31 paragraphs (3) and (4) if the wiretapping is carried out by electronic
system operators in the context of law enforcement, at the request of the police, prosecutor's
office, or other institutions whose authority is determined by law.

Article 1 number 6 a states that an Electronic System Operator is every person, state
administrator, business entity and community who provides, manages and/or operates an
Electronic System, either individually or jointly to users of the Electronic System for the
purposes himself and/or the needs of other parties.

3.2.2 Parties Authorized to Conduct Wiretapping

Based on the wiretapping authority as mentioned above, the authority to carry out
wiretapping is given to:
1 BIN (State Intelligence Agency), as regulated in the provisions of Article 31 of Law no. 17 of 2011 concerning State Intelligence, hereinafter referred to as the State Intelligence Law;

2 Investigators, as regulated in the provisions:
   • Article 7 Law no. 48 of 2009 concerning Judicial Power
   • Article 20 paragraph (3) and paragraph (4) of Law no. 18 of 2011 concerning Amendments to Law no. 22 of 2004 concerning the Judicial Commission
   • Article 26 Law no. 31 of 1999 Eradication of Corruption Crimes
   • Article 28 paragraph (1) Law no. 46 of 2009 concerning Corruption Crime Courts;
   • Article Article 55 Letter c Law no. 5 of 1997 concerning Psychotropic Substances, authority is given to police investigators;
   • Article 31 paragraph (1) letter b, and paragraph (2) Law no. UU no. 15 of 2003 concerning the Determination of Perpu No. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism;
   • Article 31 paragraphs (1) and (2) Law no. 21 of 2007 concerning Eradication of the Crime of Human Trafficking;

3 Corruption Eradication Commission, as regulated in the provisions of Article 12 paragraph (1) of Law no. 19 of 2019 concerning the Second Amendment to Law no. 20 of 2002 concerning the Corruption Eradication Commission;

4 BNN investigators, as regulated in the provisions of Article 75 letter i of Law no. 35 of 2009 concerning Narcotics;

5 Telecommunications service providers, as regulated in the provisions of Article 42 paragraph (2) of Law no. 36 of 1999 concerning Telecommunications;

6 Electronic system operators as long as they are for law enforcement purposes at the request of the police or prosecutor, as regulated in the provisions of Article 31 paragraphs (3) and (4) of Law no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions.
3.2.3 Consumer Protection Against Wiretapping

The legal relationship that exists between consumer finance companies as creditors and consumers as debtors should be built on the values of honesty and trust by upholding the protection of the rights and obligations of each party.

Based on President Kennedy's 1962 Consumer's Bill of Rights, there are 4 (four) basic consumer rights that have been recognized and known internationally. These basic rights are:

1). The right to safety or the right to obtain security;
2). The right to be informed or the right to obtain information;
3). The right to choose or the right to choose; And
4). The right to be heard or the right to be heard.39

In its development, the world consumer organization IOCU (The International Organization of Consumers Union) then added other additional rights besides the basic rights above, namely: the right to obtain consumer education, the right to obtain compensation for damages, and the right to obtain a good living environment and Healthy.40

Protection of consumers is important and is of concern to the Indonesian government. Things are seen in basic norms

The definition of consumer protection is based on Article 1 point 1 of Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as the Consumer Protection Law. states that: "Consumer protection is all efforts that ensure legal certainty to provide protection to consumers."

Recognition of the human rights of Indonesian citizens is contained in the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution, which is placed as the basic state regulations (staatgrundgesetz).41 in Indonesia. The protection of citizens' rights against wiretapping can be found in the provisions of Articles 28 F and 28 G paragraph (1) of the 1945 Constitution. Which guarantees the protection of citizens' freedom of communication and obtaining information, including the protection of their privacy and family and honor, dignity and also property.

Guarantee The human rights of Indonesian citizens stipulated in the 1945 Constitution above are the basis and support for guaranteeing the implementation of consumer rights

40 Ibid, p. 20
protection. As it is important and mandatory to guarantee its implementation, which is a new dimension of human rights, these rights are specifically regulated in the Consumer Protection Law.\textsuperscript{42}

Consumer rights are recognized and regulated in the provisions Article 4 of the Consumer Protection Law, namely:

1. The right to comfort, security and safety in consuming goods and/or services;
2. The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and conditions and guarantees promised;
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services;
4. The right to have opinions and complaints heard regarding goods and/or services used;
5. The right to obtain appropriate advocacy, protection and efforts to resolve consumer protection disputes;
6. The right to receive consumer guidance and education;
7. The right to be treated or served correctly and honestly and not in a discriminatory manner;
8. The right to receive compensation, compensation and/or replacement if the goods and/or services received are not in accordance with the agreement or are not as they should be;

In addition to the consumer rights above, based on the provisions of Article 7 of the Fiduciary Guarantee Law and Article 7 letter a of the Consumer Protection Law, which requires business actors to have good faith in carrying out their business activities, provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as providing explanations of use, repair and maintenance as well as treating or serving consumers correctly and honestly and non-discriminatorily. And there are still other obligations. If it is then linked to the installation of a GPS Tracker on the object of fiduciary collateral then of course this clearly violates the privacy of the debtor as a consumer using goods and services which should be protected as per the consumer rights above, besides that this right is also protected by the state based on the explanation of the provisions of Article 26 of the Transaction Law Electronics has guaranteed the protection of citizens' personal rights (privacy rights) against spying.

\textsuperscript{42} Desi Apriani, Consumer Rights in the Frame of Human Rights, The Puan's Legal Dialetics (Thoughts of Women Lecturers at the Faculty of Law) Wade Group, June 2020, pm. 14
3.2.4 Legal Consequences of Illegal Installation of a GPS Tracker

As a result of the act of installing a GPS Tracker without the authority of the consumer finance company and this being done without the consumer's knowledge, it can cause consumer dissatisfaction with the consumer finance company, because they feel there has been a violation of their privacy due to the actions of the consumer finance company. This dissatisfaction can be sued by consumers through the Consumer Dispute Resolution Agency (BPSK) or through general justice institutions and also criminal reporting.

3.2.5 Consumer Claims/Suits Through BPSK

Article 4 letters c and i of the Consumer Protection Law emphasizes that one of the consumer's rights is to have correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as other rights regulated in other statutory provisions. By installing a GPS Tracker on a car that is the object of fiduciary collateral without the knowledge of the consumer who will buy the car on credit, this is actually a violation of the provisions of Article 4 c and I of the Consumer Protection Law, as mentioned above.

The act of wiretapping by installing a GPS Tracker carried out by the Consumer Finance Company on fiduciary collateral objects used by consumers without the consumer's knowledge, which if the consumer finds out in the future, then of course this will cause problems because consumers feel that their privacy has been disturbed. The installation of the GPS Tracker was not installed when the vehicle was assembled at the assembly factory, but the device was only installed as a form of initiative from the consumer finance company itself. This is of course the responsibility of the consumer finance company itself.\(^\text{43}\)

Before taking dispute resolution through BPSK, consumers can submit an objection to the business actor to take responsibility for this matter. Consumers can claim compensation for losses experienced by consumers as a result of consuming goods and/or services from the Consumer Finance Company in the form of a refund or replacement of goods and/or services of similar or equivalent value and compensation is carried out within a period of 7 (seven) days after the date of the transaction. This compensation does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error.\(^\text{44}\)

\(^{43}\)Article 24 Consumer Protection Law
\(^{44}\)Article 19 Consumer Protection Law
losing criminal charges, the provisions of Article 47 of Law no. UU no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions can be applied.

Objections submitted by consumers in the form of demands for compensation before taking legal action either through BPSK or through local district courts or criminal charges against consumer finance companies, and it turns out that consumer finance companies do not respond to demands for compensation as stipulated in Article 19 of the Consumer Protection Law, then this is can be sued by filing a lawsuit through BPSK (settlement through BPSK can be done by mediation, conciliation or arbitration) in each district/city or submitting it to the local district court or peaceful settlement outside BPSK and the courts. If it turns out that these peaceful efforts do not produce results, then the resolution will be through court. However, resolving disputes outside of court does not necessarily eliminate the criminal responsibility of consumer finance companies.\(^{45}\) However, it turns out that this solution through BPSK will be difficult considering that its existence cannot be found in all districts/cities due to lack of attention from the government.\(^{46}\)

Out-of-court consumer dispute resolution is carried out to reach an agreement regarding the form and amount of compensation and/or regarding certain actions to ensure that losses suffered by consumers will not occur again or will not happen again.\(^{47}\) while resolving consumer disputes through the courts refers to the applicable provisions of general justice.\(^{48}\)

### 3.2.6 Civil Claims/Suits by Consumers Through General Court Institutions

M. Yahya Harahap defines a civil lawsuit as a contentious lawsuit which contains a dispute between the parties in the case which is examined and resolved through court with the parties' positions, namely:

- Submission of dispute resolution is called the plaintiff;
- The party drawn as an opponent is called the defendant;
- Contains dispute;
- Disputes occur between parties and at least two parties;

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\(^{45}\) Article 23, Article 45 and Article 52 of the Consumer Protection Law

\(^{46}\) Shidarta in Rida Ista Sitepu and Hana Muhamad, Effectiveness of Consumer Dispute Resolution Bodies (BPSK) As a Consumer Dispute Resolution Institution in Indonesia, Rechten Journal: Legal and Human Rights Research, Vol. 3 No. 2, 2021, p. 9

\(^{47}\) Article 47 of the Consumer Protection Law

\(^{48}\) Article 48 of the Consumer Protection Law
- A lawsuit is party in nature, meaning that the composition of one party acts as the plaintiff and the opposing party as the defendant.\(^4^9\)

Referring to the provisions of Article 23 and Article 45 of the Consumer Protection Law which opens up space for resolving disputes between consumers and consumer finance companies through filing a lawsuit with the local general justice institution (district court), the lawsuit filed by consumers against the consumer finance company is based on their actions. is against the law because the act of installing a GPS Tracker on a fiduciary car without the consumer's knowledge is a form of wiretapping because it can find out things related to consumer privacy as the author has explained above. Civil claims by consumers as parties who feel their civil rights have been violated due to acts of wiretapping by consumer finance companies are based on the provisions of Article 1365 of the Civil Code.

According to Dameria et al., legal principles that function as supervision and regulation of actions that can harm other people, and regulate responsibility for perpetrators for social relations that have caused harm, and provide compensation for victims through certain lawsuits, are the meaning of Act against the law.\(^5^0\)

The provisions of article 1365 of the Civil Code state that: “Every unlawful act, which causes harm to another person, requires the person whose fault it was to cause the loss, to compensate for the loss.” The provisions of this article are a popular article according to Ahmadi Miru & Sakka Pati, which regulates unlawful acts. This article regulates the obligation to pay compensation for parties who have committed unlawful acts against the injured party.\(^5^1\)

According to Agustina, unlawful acts in a broad sense can be interpreted as follows:

1. Violates the subjective rights of others. These subjective rights are defined both as individual rights (such as freedom, honor or good name), and as rights to property (such as material rights and other absolute rights).
2. Contrary to the legal obligations of the perpetrator, both obligations formulated in written law and in unwritten law.
3. Contrary to the rules of decency, that is, contrary to norms recognized as legal norms.\(^5^2\)

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49 M. Yahya Harahap, Civil Procedure Law Concerning Lawsuits, Trials, Confiscation, Evidence and Court Decisions, (Jakarta: Sinar Graphics) 2019, p. 49
51 Ahmadi Miru & Sakka Pati, Op.cit, 96 Miru Ahmadi and Sakka Pati, Contract Law, Explanation of the Meaning of Articles 1233 to 1456 BW, Depok : Rajagrafindo, 2019
52 Andri G. Wibisana, Environmental Law Enforcement Through Civil Accountability, (Depok : BP-FHUI), 2018, p. 33
Amran Suaidi explained elements of the provisions of Article 1365 of the Civil Code, consisting of:

1) an action has been taken;
2) there are actions or actions that are unlawful;
3) there is a mistake by the perpetrator;
4) victims who suffer losses, as well;
5) There is a cause and effect relationship, namely the actions carried out by the perpetrator cause harm to the victim.\(^{53}\)

Claims for compensation for unlawful acts based on the provisions of Article 1365 The Civil Code does not need to mention the form of compensation, nor does it need details. Thus, claims for compensation are based on objective and concrete calculations which include material and moral or immaterial losses. The amount of compensation can also be calculated in the form of restoration to its original condition (restoration to original condition, herstel in de oorpronkelijke toestand, herstel in de vorige toestand). Although claims for compensation do not require a detailed calculation, several Supreme Court jurisprudence limits claims for the value and amount of compensation that are unreasonable.\(^{54}\)

According to Setiawan, any individual who feels that their civil rights have been violated can file a lawsuit against the party who caused the loss at the local district court to claim compensation, as Article 1365 of the Civil Code regulates. Article 1372 of the Civil Code regulates the obligation to compensate for insulting acts.\(^{55}\) In general, losses resulting from unlawful acts are in the form of material losses and immaterial losses.\(^{56}\) Apart from that, according to Suparman, there needs to be attention regarding material and non-material losses. This is not a problem with compensation for material losses, but this is not the case with immaterial losses, namely in the form of anxiety, distress and shame or other things.\(^{57}\)

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\(^{54}\) M. Khoidin, Liability in Civil Law, (Yogyakarta : Lakshang Justitia), 2011, p. 110
\(^{55}\) I Made Heriyana et al., Lawsuit for Compensation in Defamation Cases According to the Civil Code, Journal of Legal Preferences Vol. 1 No. 1 2020, p. 87
\(^{56}\) Rai Mantili, Immaterial Compensation for Unlawful Acts in Practice: Comparison of Indonesia and the Netherlands, De’Jure Legal Scientific Journal, Volume 4 Number 2, September 2019, p., 300
\(^{57}\) I Made Heriyana et al., Lawsuit for Compensation in Defamation Cases According to the Civil Code, Journal of Legal Preferences Vol. 1 No. 1 2020, p. 87
The nominal amount of material loss can be calculated in real terms, so that the judge can make a decision that grants the claim objectively. For example, calculating medical costs, vehicle repair costs due to traffic accidents and so on.\textsuperscript{58}

Meanwhile, immaterial losses in legal terminology have the meaning "cannot be proven". This is a form of suffering that cannot be proven, cannot be recovered and/or causes a temporary loss of enjoyment of life, fear, pain or shock, due to an unlawful act where the value of the loss cannot be calculated in monetary terms.\textsuperscript{59}

### 3.2.7 Criminal Reporting

Consumer finance companies are non-bank institutions which are private business entities that carry out the business of providing funds to consumers for the purchase of consumer goods.

Based on the discussion above, there are only two private institutions that are allowed to carry out wiretapping, namely:

- Telecommunication service providers based on the provisions of Article 42 paragraph (2) of Law no. 36 of 1999 concerning Telecommunications, but only for the purposes of the criminal justice process (investigation, prosecution and trial) and at the request of the Attorney General and/or Chief of Police or at the request of investigators for certain criminal acts;

- Electronic system operator, but this is done for the purposes of law enforcement at the request of the police or prosecutor's office.

By providing compensation by consumer finance companies for losses experienced by consumers as a result of consuming goods and/or services or having disputes resolved outside of court, this does not necessarily eliminate criminal charges if the error can be proven or as per the provisions of Article 19 and Article 45 of the Consumer Protection Law. If it is then connected to the act of wiretapping carried out by a consumer finance company by installing a GPS Tracker without authority, which is only intended for its business interests and not for the purposes of the criminal justice process (investigation, prosecution and trial) and also not at the

\textsuperscript{58} Riki Perdana Raya Wawuru in Rai Mantili, Immaterial Compensation for Unlawful Acts in Practice: Comparison of Indonesia and the Netherlands, De'Jure Legal Scientific Journal, Volume 4 Number 2, September 2019, p., 300

\textsuperscript{59} Riki Perdana Raya Wawuru in Rai Mantili, Immaterial Compensation for Unlawful Acts in Practice: Comparison of Indonesia and the Netherlands, De'Jure Legal Scientific Journal, Volume 4 Number 2, September 2019, p., 300
request of the Attorney General and/or National Police Chief, this action is a criminal act that can still be prosecuted even though there has been compensation for damages by the consumer finance company or there has been a resolution of the problem between the consumer and the finance company outside of court.

The act of installing a GPS Tracker by a consumer finance company without authority will cause the finance company to be criminally prosecuted under the provisions of Article 47 of Law no. UU no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions, with criminal sanctions for perpetrators with the threat of imprisonment for a maximum of 10 (ten) years and/or a fine of a maximum of IDR 800,000,000.00 (eight hundred million rupiah).

4 CONCLUSION

Based on the discussion above, the conclusions that can be drawn are:

4.1 THERE ARE TWO REASONS FOR WIRETAPPING ACCORDING TO APPLICABLE REGULATIONS, NAMELY: 60

- Wiretapping for intelligence purposes;
- Wiretapping for law enforcement purposes.

Based on the wiretapping authority as mentioned above, the authority to carry out wiretapping is:

a. BIN (State Intelligence Agency), as stipulated in Article 31 of Law no. 17 of 2011 concerning State Intelligence, hereinafter referred to as the State Intelligence Law.

b. Investigators, as per the provisions:

- Article 7 Law no. 48 of 2009 concerning Judicial Power;
- Article 20 paragraph (3) and paragraph (4) of Law no. 18 of 2011 concerning Amendments to Law no. 22 of 2004 concerning the Judicial Commission
- Article 26 Law no. 31 of 1999 Eradication of Corruption Crimes
- Article 28 paragraph (1) Law no. 46 of 2009 concerning Corruption Crime Courts
- Article 55 Letter c Law no. 5 of 1997 concerning Psychotropic Substances, authority is given to police investigators

60 SubsideManthovani, Op.cit, p 71
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- Article 31 paragraph (1) letter b, and paragraph (2) Law no. UU no. 15 of 2003 concerning the Determination of Perpu No. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism
- Article 31 paragraphs (1) and (2) Law no. 21 of 2007 concerning Eradication of the Crime of Human Trafficking
  c. Corruption Eradication Commission, as stipulated in Article 12 paragraph (1) of Law no. 19 of 2019 concerning the Second Amendment to Law no. 20 of 2002 concerning the Corruption Eradication Commission;
  d. BNN investigators, as stipulated in Article 75 letter i of Law no. 35 of 2009 concerning Narcotics;
  e. Telecommunication service providers, as stipulated in Article 42 paragraph (2) of Law no. 36 of 1999 concerning Telecommunications;
  f. Electronic system operators as long as they are for law enforcement purposes at the request of the police or prosecutor, as stipulated in Article 31 paragraphs (3) and (4) of Law no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions.

4.2 THE LEGAL CONSEQUENCES OF WIRETAPPING USING A GPS TRACKER WITHOUT AUTHORITY CARRIED OUT BY CONSUMER FINANCE COMPANIES ARE AS FOLLOWS:

4.2.1 Claims/Suits by Consumers Through BPSK

The act of wiretapping by installing a GPS Tracker carried out by the Consumer Finance Company on fiduciary collateral objects used by consumers without the consumer's knowledge, which if the consumer finds out in the future, then of course this will cause problems because consumers feel that their privacy has been disturbed. Due to this action, consumers can submit demands/lawsuits to BPSK in each district/city, even though in reality not all regions have BPSK institutions to resolve disputes between consumers and consumer finance companies due to lack of government attention.
4.2.2 Claims/Suits by Consumers Through General Court Institutions

The installation of a GPS Tracker on a car subject to fiduciary collateral by a consumer finance company without having the authority, as a result consumers can demand compensation for both material and immaterial losses by filing a lawsuit for an unlawful act through the local district court as regulated in the provisions of Article 1365 of the Civil Code.

4.2.3 Criminal Reporting by Consumers

Regarding the act of installing a GPS Tracker by a consumer finance company without authority, this could result in the consumer finance company being prosecuted criminally based on the provisions of Article 47 of Law no. UU no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions, with criminal sanctions for perpetrators with the threat of imprisonment for a maximum of 10 (ten) years and/or a fine of a maximum of IDR 800,000,000.00 (eight hundred million rupiah).

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