

ANALYSIS OF DECISION NUMBER 26/Pid.Sus/TPK/2024/PN.Mdn CONCERNING ASSETS CONFISCATION IN AN EFFORTS TO RETURN STATE MONEY ACCORDING TO LAW NUMBER 31 Of 1999

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ABSTRACT

Corruption is an act of abuse of power or office for personal or group interests that are contrary to law, morals or ethics. Usually corruption is carried out by public officials or parties who have authority in government, organizations or institutions to obtain financial or other benefits in an illegal manner. Asset confiscation aims to reduce the number of corruption crimes, return state losses, prevent perpetrators of corruption from enjoying the proceeds of their crimes. Corruption crimes are prosecuted at home and abroad, blocked, confiscated, transferred, and extradited to replace the financial losses of victims of corruption. Law Number 31 of 1999 concerning the Eradication of Corruption regulates legal actions that can be taken against perpetrators of corruption, including asset confiscation. Efforts to return state financial losses from perpetrators of corruption will be successful if there is cooperation between law enforcement officers (Police, Prosecutors, KPK) to uncover corruption crimes, especially in efforts to return state losses. Regarding the state financial losses, it is contained in the laws and regulations regarding criminal acts of corruption, both the old regulations, namely Law Number 3 of 1971 and the new regulations, namely Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

Keywords: Corruption, Decision Analysis, Asset Confiscation.

A. Introduction

Corruption is an act of abuse of power or office for personal or group interests that are contrary to law, morals or ethics. Usually corruption is carried out by public officials or parties who have authority in government, organizations or institutions to obtain financial or other benefits in an illegal manner. Criminal acts of corruption can include various forms, such as bribery, extortion, embezzlement, nepotism, misuse of state funds, and others. Corruption is detrimental to society, the state, and hinders economic and social progress. Asset confiscation is a legal action taken by the state to take over ownership or control of criminal assets. This action is carried out based on a court decision that has permanent legal force.

Asset confiscation aims to reduce the number of corruption crimes, return state losses, prevent corruptors from enjoying the proceeds of their crimes. Corruption cases in Indonesia usually occur every year. The resulting losses erode the government's budget. Because state losses due to corruption are not paid. In corruption law, it is also known as the term return or

confiscation of property resulting from corruption. Asset recovery as a law enforcement system carried out by victims of corruption to take and revoke the property rights of corruptors through a series of processes and mechanisms, both criminal and civil. property is made.

Corruption crimes are prosecuted at home and abroad, blocked, confiscated, diverted, and extradited to compensate for the financial losses of victims of corruption. In the efforts to restore the country based on utilitarianism which is explained by the principle of The Greatest Happiness for The Greatest Number (The greatest happiness of the greatest number of people) or better known as the theory of utility. The social impact of corruption impoverishes society because corruption takes the rights of others, thereby increasing social inequality, trust between people decreases, the value of justice does not work, and solidarity between people also does not function effectively. In the political aspect, the level of public trust in the government decreases, people become apathetic, money politics is increasingly rampant, the ideals of democracy and the spirit of reform are damaged. The impact of the culture of corruption makes there is no appreciation for hard work and a simple lifestyle, people are used to looking for shortcuts, taking other people's rights, stealing, cheating. Corruption will maintain an instant culture and people become accustomed to not thinking about others and prioritizing personal and group interests.

Corruption in Indonesia has a legal provision that regulates acts that are considered to damage the nation and state both in terms of economy and morals. The consequences of corruption are not only detrimental to individuals, but also detrimental to the country's economy which has an impact on hampering the development of the country towards a better direction, increasing welfare and alleviating poverty of the people.

B. Research Methods

A study cannot be called research if it does not have a research method.¹ Research methods are one of the factors of a problem that will be discussed.² The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method.³ The literature materials used in writing this research are several references originating from

¹ Koto, I., Hati, L. P., Manurung, A. S., & Siregar, A. S. (2024). Islamic Holy Days: The Contention of Rukyatul Hillal and Hisab Hakiki Wujudul Hilal Disputes for Muslims in Indonesia. *Pharos Journal of Theology*, 105(2).

² Hanifah, I., & Koto, I. (2025). Legal Protection for Workers with Fixed-Term Employment Agreements Before and After the Job Creation Law. *Kosmik Hukum*, 25(2), 245-256.

³ Simatupang, R. S. A. (2024). Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan. *Jurnal Yuridis*, 11(1), 54-63.

research results, studies, and reviews of several writings which are then summarized into a scientific paper.⁴

C. Discussion

1. Forms of Efforts to Return State Money According to Law Number 31 of 1999

Provisions on replacement money as regulated in Article 18 of Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. Article 18 paragraph (1) letter b explains that the payment of replacement money in an amount that is at most equal to the assets obtained from criminal acts of corruption. Closure of all or part of the company for a maximum period of 1 (one) year. Revocation of all or part of certain rights or elimination of all or part of certain benefits, which have been or may be given by the government to the convict.

Closure of a company in a corruption case refers to sanctions imposed on a business entity that is proven to be involved in corrupt practices. These sanctions can be in the form of revocation of a business license, dissolution of the company, or a ban on operating for a certain period of time. In Indonesia, sanctions against corporations that commit corruption are regulated in Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and Supreme Court Regulation (Perma) Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. Sanctions that can be imposed on companies.

Revocation of certain rights in corruption crimes is one of the additional penalties that can be imposed on perpetrators of corruption crimes. Revocation of these rights includes the right to vote and be elected. The government respects individual rights, including political rights, namely the right to vote and be elected, the right to express opinions, the right to organize, the right not to vote, and the right to establish a party. Political rights also include the right to life, the right to freedom, and the right to own property. Confiscation of property in corruption crimes is an action by investigators to take over the assets of corruptors. This confiscation is carried out for the purposes of evidence, prosecution, and trial. In cases of corruption, confiscation of property is part of a legal effort to return state losses and prosecute perpetrators of crimes.

The punishment for corruption perpetrators in Indonesia is regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and is synergized with the Criminal Code in Article 2 paragraph

⁴ Perdana, S., & Koto, I. (2024). Providing Legal Protection for Consumers Against Standard Clauses/One-sided Agreements Made by Business Actors. *DE LEGA LATA: Jurnal Ilmu Hukum*, 9(1), 23-30.

(1), Article 12, and Article 12 B paragraph (2). The three articles include cumulative criminal sanctions (imprisonment and fines).

2. Judge's Considerations in Determining Sanctions Against Decision Number 26/PID.SUS-TPK/2024/PN.Mdn

The judicial system is run by appointing judges who are officials who are authorized by law to try. Judges are given the task of resolving cases or cases neutrally or impartially based on applicable regulations by prioritizing independence and freedom from the influence of the parties to the case in making a decision, in the sense that judges in making decisions for each case or case faced by looking at several things including those related to legal relationships, legal values of behavior and related to the legal standing of the parties involved in a case. In case Number 26/PID.SUS-TPK/2024/PN.Mdn, defendant I and defendant II were proven guilty of committing a crime in Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 paragraph (1) ke-1e of the Criminal Code, which states abusing office and committing unlawful acts. Article 55 paragraph (1) is punishable by a criminal sentence of 4 years plus a fine of IDR 200 million, subsidiary to 1 month imprisonment, and payment of compensation of IDR 238,890,000.

First, the judges considered that the defendant was legally and convincingly proven to have committed a criminal act of corruption related to routine maintenance of roads and bridges in Gunungsitoli, Nias, in the 2022 budget year, which resulted in state financial losses of IDR 2.45 billion. This act violated Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code (KUHP). Second, the judges considered the demands of the public prosecutor (JPU) who previously charged the defendant with five years in prison and a fine of IDR 100 million, subsidiary to three months in prison. Based on these considerations, the panel of judges sentenced Rizak Taruna Zega to three years and six months in prison (3.5 years) and a fine of IDR 50 million, subsidiary to one month in prison. In addition, the defendant was also required to pay compensation of IDR 1.88 billion. If the replacement money is not paid within one month after the verdict has permanent legal force, then his property will be confiscated by the prosecutor and auctioned to cover the replacement money. If the defendant's property is insufficient, then the prison sentence will be added for two years and six months. Meanwhile, the defendant Temazisokhi Telaumbanua, he was charged with a prison sentence of 1 year and 6 months (1.5 years) and a fine of Rp100 million subsidiary to 3 months in prison.

D. Conclusion

Forms of asset confiscation in an effort to return state money according to Law Number 31 of 1999, namely, the provisions of replacement money as regulated in Article 18 of Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Corruption. First, the payment of replacement money as regulated in Article 18 paragraph (1) letter b explains that the payment of replacement money in an amount that is as much as possible equal to the assets obtained from corruption. Second, the closure of a company in a corruption crime refers to the sanctions given to a business entity that is proven to be involved in corrupt practices. This sanction can be in the form of revocation of a business license, dissolution of the company, or a ban on operating for a certain period of time. Third, the revocation of certain rights in a corruption crime is one of the additional penalties that can be imposed on perpetrators of corruption. Fourth, the confiscation of assets in a corruption crime is an action by investigators to take over the assets of corruptors. The five prison sentences for corruption perpetrators in Indonesia are regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and are synergized with the Criminal Code in Article 2 paragraph (1), Article 12, and Article 12 B paragraph (2).

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