

The Role of Prosecutors in Implementing Judges' Decisions on Corruption Criminal Acts (Case Study at The Ende District Prosecutor's Office)

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Abstract. *The role of prosecutors is very important in the implementation of criminal decisions for corruption crimes, considering that prosecutors are responsible for ensuring that court decisions can be implemented effectively in order to uphold justice and restore public confidence in the legal system. This study aims to determine and analyze the role of prosecutors in the implementation of judges' decisions on corruption crimes at the Ende District Attorney's Office along with the obstacles faced and their solutions. This study uses a sociological juridical approach method, the research specification is descriptive analytical. The data used are primary data and secondary data while the data collection method is carried out through field studies and literature studies. The data analysis method is qualitative. The theories used are the theory of law enforcement and the theory of how the law works. Based on the research results it can be concluded that the role of prosecutors in implementing judges' decisions on corruption crimes at the Ende District Attorney's Office has been carried out with their authority as stipulated in the law. The obstacles in implementing judges' decisions on corruption crimes at the Ende District Attorney's Office are the lack of functional prosecutors, difficulties in asset tracing, and the failure to implement replacement money decisions. Therefore, the solution is to add prosecutors for special crimes, conduct asset tracing from the investigation stage until before the implementation of the criminal sentence or imprisonment is completed, and take a preventive approach to the convict's family.*

Keywords: *Corruption Crime; Implementation of Judge's Decision; Prosecutor.*

1. Introduction

The Republic of Indonesia is a state of law (Rechtsstaat), namely a state in which all attitudes, behavior and actions, whether carried out by the rulers or by its citizens, must be based on law.¹The Indonesian legal state is a state based on Pancasila and the 1945 Consti-

¹Soehino, 2000, Principles of State Administrative Law, Jakarta, Liberty Yogyakarta, p. 195

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tution of the Republic of Indonesia (UUD 1945).²

All aspects of life in society, nation and state, including government, are based on laws that are in accordance with the national legal system.³This means that in society, law is absolutely necessary to regulate relations between citizens and relations between society and the state.⁴

Law as a social institution was created by humans to create order.⁵The law determines what should be done and what should not be done and is prohibited. So if the prohibited thing is done, then the punishment can be enforced through certain institutions. One of the prohibited acts is the crime of corruption. As is known, corruption is a reality of human behavior in social interactions that are considered deviant, and endanger society and the state.⁶

Corruption is an act that can not only harm the state finances but can also cause losses to the people's economy. Barda Nawawi Arief is of the opinion that corruption is an act that is very despicable, condemned and hated by most people; not only by the people and nation of Indonesia but also by the people of nations in the world.⁷

Efforts to eradicate criminal acts of corruption include the enactment of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (UU Tipikor), as a replacement for Law Number 3 of 1971. These laws and regulations are guidelines for law enforcement officers in enforcing the law against criminal acts of corruption.

Furthermore, based on the provisions of Article 26 of the Corruption Law, it is stated that investigations, prosecutions, and examinations in court against corruption crimes are carried out based on applicable criminal procedure laws, unless otherwise specified. Law enforcement against corruption crimes is not only through laws and regulations, but also requires law enforcement instruments, one of which is the prosecutor's office.⁸ In accordance with the Criminal Procedure Code (KUHP), it is stated that the criminal justice process begins with an investigation and ends with a court decision that has permanent legal force.⁹

The Prosecutor's Office is a law enforcement agency in the criminal justice system that carries out the functions of prosecution and executing decisions. Article 1 number 1 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia as

²Miftakhul Khobid, Gunarto, Lathifah Hanim, Analysis of Criminal Law Formulation Policy in Combating Corruption, *Khaira Ummah Law Journal*, Vol. 13. No. 1 March 2018, p. 38

³Widayati, Implementation of Legal Principles in the Formation of Participatory and Fair Legislation, *Unissula Law Journal*, Volume 36 No. 2, September 2020, p. 60.

⁴Caswadi & Andri Winjaya Laksana, Ideal Formulation of Corruption Crime Investigation Conducted Under Certain Circumstances, *Ratio Legis Journal*, Volume 3 No. 4, December 2024, p. 836.

⁵Pujiyono, 2007, Collection of Criminal Law Writings, Mandar Maju, Bandung, p. 66

⁶Evi Hartanti, 2016, Criminal Acts of Corruption, Sinar Grafika, Jakarta, p. 1

⁷Muladi and Barda Nawawi Arief, 1992, Criminal Law Anthology, Bandung, Alumni, p. 133

⁸Joko Kris Sriyanto and Bambang Tri Bawono, Effectiveness of Performance of Prosecutor's Office in Preventing Corruption Crime after the Team's Disbandment, *Law Development Journal*, Volume 2 Issue 4, December 2020, p. 610

⁹Yohana EA Aritonang, July Ester, Herlina Manullang, The Role of the Prosecutor's Office and Efforts to Manage the Results of the Execution of Evidence of Corruption Crimes (Study at the Binjai District Attorney's Office), *Nommensen Law Review*, Volume 01, Number 01, May 2022, p. 15

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amended by Law Number 11 of 2021 (Prosecutor's Office Law) stipulates that the prosecutor's office is a government institution whose function is related to the judicial power that exercises state power in the field of prosecution and other authorities based on the Law. Furthermore, Article 1 paragraph (3) of the Prosecutor's Office Law states that the Public Prosecutor is a Prosecutor who is authorized by this Law to carry out prosecutions and carry out judges' determinations and other authorities based on the Law. Thus, it can be seen that in addition to being a public prosecutor, the prosecutor also has the authority to implement a judge's decision that has permanent legal force.¹⁰

If the judge's decision that has been read out is accepted by the parties to the case and no legal action is requested by the parties or no further legal action can be requested, then the judge's decision is declared to have permanent legal force (in kracht).¹¹ The judge's decision that has permanent legal force will then be implemented by the authorized party (execution) by the public prosecutor. This is as regulated in Article 270 of the Criminal Procedure Code which states that the implementation of a court decision that has permanent legal force is carried out by the prosecutor, for which the clerk sends a copy of the decision letter to him.

The duties and authorities of the prosecutor in implementing the judge's decision are also regulated in Article 1 number 3 of Law Number 14 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia as amended by Law Number 11 of 2021 (hereinafter referred to as the Prosecutor's Office Law) which states that the Public Prosecutor is a Prosecutor who is authorized by this Law to carry out prosecution and implement the judge's determination and other authorities based on the Law. In addition, Article 30 paragraph 1 letter b of the Prosecutor's Office Law also states that, in the criminal field, the prosecutor's office has the duty and authority to implement the judge's determination and court decisions that have obtained permanent legal force.

In implementing the judge's decision, the Prosecutor has the authority to execute the evidence by destroying or confiscating it for the benefit of the state or returning the evidence to its rightful owner in accordance with the decision determined by the Panel of Judges.¹²

In its development, the eradication of corruption has currently focused on three main issues, namely prevention, eradication, and return of assets from corruption (asset recovery). This shows that efforts to eradicate corruption do not only lie in efforts to prevent and eradicate in terms of criminalizing perpetrators but also include efforts to return state losses from the results of corruption. The return of state losses is intended so that the state losses that arise can be covered by the return of the proceeds of corruption so that it does not have a worse impact. Saving state finances is carried out in various ways, including tracking/pursuing and confiscating goods/wealth suspected of being related to corruption crimes. In the event that the panel of judges imposes a fine and replacement money, the

¹⁰Ibid.

¹¹I Wayan Edi Kurniawan, Anak Agung Sagung Laksmi Dewi, I Made Minggu Widyantara, Prosecutor as Executor in the Court Decision for the Crime of Murder, *Journal of Legal Preferences*, Vol. 1, No. 2, 2020, p. 154.

¹²Yohana EA Aritonang, July Ester, Herlina Manullang, The Role of the Prosecutor's Office and Efforts to Manage the Results of the Execution of Evidence of Corruption Crimes (Study at the Binjai District Attorney's Office), *Nommensen Law Review*, Volume 01, Number 01, May 2022, p. 16.

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public prosecutor has the authority to implement the decision. The purpose of the criminal payment of replacement money is to maximize the return of state money that has been corrupted. Returning losses from the proceeds of corruption will prevent the perpetrator from enjoying the results of his actions.¹³

In practice, prosecutors in implementing criminal decisions on corruption crimes are sometimes constrained by, among others, lack of asset information, uncooperative convicts, and difficulties in confiscating corrupted assets. In addition, regulatory weaknesses and unclear verdicts also hamper the execution process.

The role of prosecutors is very important in the implementation of criminal decisions for corruption crimes, considering that prosecutors are responsible for ensuring that court decisions can be implemented effectively in order to uphold justice and restore public confidence in the legal system. Therefore, the author is interested in conducting research entitled "The Role of Prosecutors in the Implementation of Judges' Decisions on Corruption Crimes (Case Study at the Ende District Attorney's Office)".

2. Research Methods

The approach method in this research is a sociological legal approach method, namely research based on normative legal science (statutory regulations), but not studying the norm system but observing how reactions and interactions occur when the norm system works in society.¹⁴ This study examines the regulations related to the role of prosecutors in implementing judges' decisions in corruption crimes and how these regulations work in their implementation.

3. Results and Discussion

3.1. The Role of Prosecutors in the Implementation of Judges' Decisions on Corruption Crimes at the Ende District Attorney's Office

The impact of such a large corruption crime is a serious problem for the future of the nation, and is the responsibility of all elements of the nation without exception. It is not easy to solve the problem of corruption even though it involves all existing elements including society, this is a crime that is often termed an extra ordinary crime, namely an extraordinary crime that not only harms state finances, but is a violation of aspects in the context of social and economic rights of the community in general, so that later corruption in its eradication must be carried out in an extraordinary way too.¹⁵

Based on the data above, it can be seen that during 2024, the Ende District Attorney's Office has implemented court decisions on 1 corruption case.

This study specifically examines prosecutors as executors of corruption criminal decisions at the Ende District Attorney's Office. In relation to corruption, prosecutors play a role in im-

¹³Tandyo Sugondho, The Role of the Prosecutor's Office in Recovering State Losses Due to Corruption, Legal Dynamics, Volume 12, No.1, Feb 2021, p. 142

¹⁴Mukti Fajar ND and Yulianto Achmad, 2012, Dualism of Normative and Empirical Legal Research, Yogyakarta: Pustaka Pelajar, p.47.

¹⁵I Kadek Warga Pernada, I Made Sepud and Diah Gayatri Sudibya, Implementation of Judge's Decisions That Have Permanent Legal Force Against Replacement Money in Corruption Crimes Decision Number 02/Pid.Sus-TPK/2017/PN DPS, Jurnal Analogi Hukum, Volume 1 No. 3, 2019, pp. 347–353

plementing criminal judges' decisions that have obtained permanent legal force. This is as regulated in Article 270 of the Criminal Procedure Code which states that the implementation of court decisions is the prosecutor. Based on the provisions of Article 270 of the Criminal Procedure Code above, the prosecutor is a law enforcement officer who implements court decisions (executor), while regarding the procedures for prosecutors to implement the court decisions, it is not clearly stated. As an executor, success in implementing court decisions is a real benchmark for law enforcement, so that the public feels that the perpetrators have truly received legal consequences.

A criminal decision that has permanent legal force is not the final step in enforcing criminal law, until the public prosecutor in his role as the executor of the decision enforces its contents. In criminal cases, the decision is final and binding if it is carried out through execution (*inkracht van gewijsde*). The inclusion of execution in the decision is necessary to guarantee legal certainty and provide a basis for its implementation. In order for the public prosecutor to carry out the final execution of the decision in a criminal case, the clerk must provide a copy of the decision to the public prosecutor. The defendant is obliged to do what is requested by the public prosecutor so that the decision can be implemented, although the public prosecutor may not have the authority to do so in every case.¹⁶

The role of the prosecutor in implementing criminal decisions is as follows:¹⁷

1. Implementation of prison sentences

Execution of a prison sentence is one of the stages in the criminal justice process which aims to uphold law and justice in accordance with a court decision which has permanent legal force (*solid*). In the Indonesian justice system, prosecutors have a vital role as executors responsible for carrying out executions of convicts sentenced to prison. This process must be carried out procedurally and prioritize the principles of justice and protection of the rights of convicts.¹⁸

The implementation of prison sentences by prosecutors is regulated in various legal provisions in force in Indonesia, including:

a. Criminal Procedure Code (KUHP)

The Criminal Procedure Code regulates the execution mechanism for convicts who have been sentenced to a court decision that has permanent legal force. Article 267 of the Criminal Procedure Code stipulates that prosecutors have the authority to carry out executions based on court decisions that have permanent legal force.

b. Law Number 12 of 1995 concerning Corrections

This law regulates the correctional system and correctional institutions where convicts serve their prison sentences.

c. Government Regulation Number 99 of 2012

¹⁶Lia Hartika, Indri Dithisari, Syarifah Lisa Andriati, Urgency of Implementing Additional Criminal Execution of Replacement Money by the Executing Prosecutor in Corruption Cases, *Binamulia Hukum*, Volume 11, Number 2, December 2022, p. 129.

¹⁷Implementation of Imprisonment Sentences by Prosecutors, Procedures, Duties and Responsibilities, <https://line1.news>, accessed May 25, 2025

¹⁸*Ibid*

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This regulation regulates the procedures for carrying out executions of convicts and the prosecutor's obligations in ensuring that the execution is carried out properly.

The process of carrying out the execution of a prison sentence by the prosecutor consists of several stages which must be carried out carefully and following established legal procedures, namely:¹⁹

a. Waiting for the final court decision

Before the execution, the prosecutor must ensure that the verdict handed down by the court has permanent legal force. This means that no further legal action can be filed, such as an appeal or cassation. The prosecutor can only carry out the execution after the verdict has become *inkracht*.

b. Receipt of a Copy/Excerpt of a Court Decision

After the court decision is *inkracht*, the prosecutor will receive an official copy of the decision. This copy of the decision is the basis for the prosecutor to carry out the execution. The prosecutor will also check whether the convict has filed other legal remedies, such as pardon, which can affect the implementation of the execution.

The prosecutor will coordinate with the designated correctional institution or detention center to execute the prison sentence. The convict will be transferred to the appropriate correctional institution to serve his sentence.

As an executor, the prosecutor has several responsibilities that must be carried out professionally and in accordance with legal principles, including:

a. Ensuring legal certainty

The prosecutor is responsible for ensuring that court decisions are implemented properly and in accordance with applicable law. This is to provide legal certainty for convicts and the community.

b. Respecting the human rights of convicts

In carrying out executions, prosecutors must ensure that the convict's human rights are protected, such as the right to humane and non-discriminatory treatment.

c. Coordination with Related Parties

Prosecutors need to work together with correctional institutions, police, and other relevant parties to ensure the smooth implementation of executions and minimize disruptions that may occur during the process.

d. Ensuring Transparency and Accountability

The execution must be carried out transparently and accountably. Prosecutors must ensure that the execution process can be monitored and there is no abuse of authority.

The implementation of prison sentence execution by prosecutors is part of law enforcement efforts that not only involve technical and procedural aspects, but also consider the human rights of convicts. Prosecutors have a very important role to ensure that executions are carried out in accordance with applicable legal provisions, as well as ensuring that all parties

¹⁹Ibid.

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involved can undergo this process fairly. In every step of the execution, prosecutors must prioritize the principles of justice, legal certainty, and protection of human rights.

2. Implementation of criminal fine decisions

Criminal fines are one of the main types of criminal penalties that are threatened and are mainly aimed at the assets or property of a perpetrator for violating the provisions of applicable laws and regulations. If viewed in general, the existence of this criminal fine is less well-known than imprisonment or confinement. Criminal fines are often threatened as an alternative to confinement in almost all violations specified in Book II and Book III of the Criminal Code. Even if it is made the main penalty, it is usually applied to minor crimes such as traffic crimes.²⁰

3. Implementation of additional criminal decisions to compensate state losses

In this case, the state loss must be recovered. One way that can be used to recover the state loss is by requiring the defendant who is proven and convincing to have committed a criminal act of corruption to return the proceeds of his corruption to the state in the form of replacement money. Therefore, even though replacement money is only an additional punishment, it is very unwise to allow the defendant not to pay replacement money as a way to recover the state loss. The amount of replacement money is the state loss that is actually enjoyed or enriches the defendant or due to certain causalities, so that the defendant is responsible for all state losses.²¹

Based on the provisions of Article 18 of the Corruption Law above, it has formally supported efforts to return losses suffered by the State as a result of criminal acts of corruption as contained in the principle of returning State assets which is the spirit of the Corruption Eradication Law. However, in its implementation, only a few convicts pay criminal compensation. Whereas normatively, laws and regulations have provided such an opportunity.²²

The return of state financial losses through criminal instruments by imposing compensation payments actually aims to impoverish corruptors (corruptors), because the amount of state losses that are corrupted must be replaced, especially if a fine is also imposed so that the convict will be drained of his assets in addition to the assets that were corrupted. However, Article 18 paragraph 3 of the Corruption Law provides tolerance that if the convict does not have sufficient assets to pay compensation, then he will be punished (replaced) with imprisonment for a period not exceeding the maximum threat of the principal sentence, and the sentence has been determined in the Court's Decision.²³

Substitute sentences (subsidiaries) ultimately become a problem when the executing prosecutor is going to carry out the execution, where substitute sentences become an opportunity for corruption convicts to avoid paying substitute money. In the end, the Corruption

²⁰Gebi Emada Turnip, Criminal Execution of Fines in Corruption Crimes (Case Study at the Purwokerto District Attorney's Office), Soedirman Law Review Journal, Vol. 6 Issue 4, November 2024, p. 292

²¹Moh. Yusril, Syachdin, Kamal, Implementation of Replacement Money in Corruption Crimes (Study of the Donggala District Attorney's Office), Toposantaro Journal of Legal Studies, Volume 1 No. 2, June, 2024, p. 87

²²M Yusuf Daeng, Tri Novita Sari Manihuruk, Implementation of Execution of Replacement Money for Corruption Convicts by the Pekanbaru District Attorney's Office, Justitia Jurnal Hukum, Volume 6 No. 2 October 2021, p. 220.

²³Ibid.

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Court's decision to impose substitute money to return state financial losses is in vain because substitute sentences become a loophole for corrupt convicts to secure assets from corruption. This is the root of the problem for the Executing Prosecutor when he is going to execute substitute money payments to cover state losses/state economy or restore state losses charged to corruption convicts.²⁴

1. Decision

The decision of the first instance court (Kupang District Court) is as follows:

- a. Declaring that the Defendant Hermin Gildus Ranga has not been proven legally and convincingly guilty of committing the crime of corruption together as a continuing act as stated in the First Primary Indictment of the Public Prosecutor;
- b. To acquit the Defendant from the First Primary Charge above;
- c. Declaring that the Defendant Hermin Gildus Ranga has been proven legally and convincingly guilty of committing the crime of corruption together as a continuing act, as in the First Subsidiary Charge of the Public Prosecutor;
- d. Sentencing the Defendant to imprisonment for 4 (four) years and a fine of Rp. 100,000,000; (one hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months;
- e. Determine that the Defendant remains in detention;
- f. Determine that the period of detention served by the Defendant is deducted in full from the sentence imposed;
- g. Sentencing the Defendant to pay compensation for state financial losses amounting to Rp. 733,495,075.5 taking into account the amount of money and evidence that has been confiscated by investigators.
- h. Determine the evidence in the case
- i. Charge the Defendant with paying court costs amounting to Rp. 5,000 (five thousand rupiah).

Against this decision, the defendant filed an appeal, which application was accepted with the following decision:

1. Accepting the appeal request from the defendant Hermin Gildus Ranga
2. Changing the decision of the Corruption Crime Court at the Kupang District Court with the following decision:
 - a. Declaring that the defendant Hermin Gildus Ranga has been proven legally and convincingly guilty of committing the crime of corruption jointly and continuously, as in the first subsidiary charge.
 - b. Sentencing the defendant to 6 (six) years in prison and a fine of Rp. 300,000,000,- with the provision that if the fine is not paid, it will be replaced with 6 (six) months in prison.
 - c. Determine that the Defendant remains in detention;

²⁴Rudi Pardede, 2016, *Process of Restitution of State Losses Due to Corruption*, Genta Publishing, Yogyakarta, p. 116

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- d. Determine that the period of detention served by the Defendant is deducted in full from the sentence imposed;
- e. Sentenced the Defendant to pay compensation for state financial losses amounting to Rp733,495,075.5 by taking into account the amount of money and evidence that has been confiscated by investigators. The total amount of money confiscated by investigators and the money above, confiscated for the state and calculated as a return of state financial losses, then calculated as a return of state losses for the defendant Hermin Gildus Rangga and Witness Wensuslaus Derta. In the event that the defendant does not pay compensation within one month after the court decision has permanent legal force, then his property can be confiscated by the Prosecutor and auctioned to cover the compensation. In the event that the convict does not have sufficient property to pay compensation, then the convict is sentenced to 1 year in prison.
- f. Determine the evidence in the case
- g. Charge the defendant, at the trial level and to pay court costs amounting to Rp. 5,000,- (five thousand rupiah).

Based on the description above, it can be seen that in the cassation level decision for corruption with the defendant Hermin Gildus Rangga, the judge increased the sentence against the defendant, namely 6 years imprisonment and a fine of Rp. 300,000,000, - with the provision that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months. The judge also sentenced the defendant to pay compensation for state financial losses of Rp. 733,495,075.5 by taking into account the amount of money and evidence that had been confiscated by investigators amounting to Rp. 272,550,000, -

Based on the description of the case example above, the role of the prosecutor in implementing criminal decisions regarding corruption crimes is as follows:²⁵

1. Executing a prison sentence

The implementation of the verdict (execution) of a criminal sentence or regular imprisonment has no obstacles. The procedure for executing a prison sentence by the Prosecutor goes through several stages, namely:

a. There is a decision that has permanent legal force (inkracht)

The prosecutor waits until the court's decision against the defendant has permanent legal force. This means that there are no more ordinary legal remedies (appeal, cassation) or extraordinary legal remedies (judicial review) or the time limit has passed.

b. Receipt of copy of decision

The prosecutor receives a copy of the official court decision from the court clerk. This is the legal basis for the prosecutor to carry out the execution.

c. Preparation of a letter of order to execute a decision

Making a letter of order to execute a verdict, in this case the public prosecutor makes a letter of order to execute a court decision, a letter of detention for the execution of a prison

²⁵Results of an interview with Rohmat Esa Hasan, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025

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sentence, a letter of introduction to the Correctional Institution

d. Arrest/summons of convicts

If the convict is not detained, the prosecutor legally summons him to be present to carry out the execution. If the convict is not cooperative, the prosecutor can carry out a forced pick-up assisted by the police.

e. Escort to prison

The convict is taken to the designated prison. The prosecutor then hands over the convict along with the execution documents (a copy of the verdict and other administration)

f. Prison Admissions

The prison authorities check the completeness of the files and accept the convict as a prisoner, then register him/her in the correctional system to serve the sentence according to the length of the sentence.

2. Implementing a fine of 300,000,000,- with the provision that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months.

The implementation of criminal fines is regulated in Article 30 of the Criminal Code which states the following:

(1)The minimum fine is three rupiah seventy-five cents.

(2)If the fine is not paid, it will be replaced with imprisonment.

(3)The length of the substitute imprisonment sentence is at least one day and at most six months.

(4)In the judge's decision, the length of the substitute imprisonment is determined as follows; if the fine is seven rupiah fifty-two cents or imprisonment, it is calculated as one day; if it is more than five rupiah fifty cents, each seven rupiah fifty cents is calculated as a maximum of one day and the same applies to the remainder which is not enough, seven rupiah fifty cents.

(5)If there is an increase in the penalty for a fine due to concurrent or repeated acts, or due to the provisions of Article 52, then the substitute penalty for imprisonment is a maximum of eight months.

(6)Substitute imprisonment may not exceed eight months.

The role of the prosecutor in executing criminal fines is as follows:

a. The prosecutor is waiting for the court's decision to impose a fine on the defendant which has permanent legal force.

b. The prosecutor received an official copy of the court decision

c. The prosecutor makes a letter of order to execute a criminal fine decision, a letter of collection of the fine to the convict, a detailed list of the fine and replacement damages if not paid.

d. The prosecutor officially summons the convict to pay the fine to the state treasury, which payment is made through a bank or state receipt post and is proven by a deposit receipt.

e. In the case of the convict not paying the fine, the prosecutor executes a substitute imprisonment sentence (subsidiary) in accordance with that stated in the verdict, then the

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prosecutor sends the convict to the prison to serve the imprisonment sentence. In the example case, against the penalty in the form of a fine of Rp. 3,000,000,000 the defendant could not pay it so the defendant chose to serve a subsidiary or additional sentence in the form of 6 (six) months imprisonment.

3. Executing a criminal decision to replace state losses amounting to Rp. 733,495,075,-

Payment of replacement money in corruption crimes is an additional punishment in addition to the punishment against the convict himself and a fine. Additional punishments in corruption crimes can be:²⁶

- a. Confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption were committed, as well as goods replacing such goods;
- b. Payment of compensation in an amount that is at most equal to the assets obtained from the criminal act of corruption;
- c. Closure of all or part of the company for a maximum period of 1 (one) year;
- d. Revocation of all or part of certain rights or the elimination of all or part of certain benefits, which have been or may be granted by the government to the convict;
- e. If the convict does not pay the replacement money within 1 (one) month after the court decision has obtained permanent legal force, his property can be confiscated by the prosecutor and auctioned to cover the replacement money.

For defendants who are sentenced to additional punishment in accordance with Article 18 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 which regulates the payment of replacement money, the maximum amount of which is equal to the assets obtained from the crime of corruption, the public prosecutor shall endeavor to ensure that the replacement money can be paid by the defendant or family with notification either directly or by means of a warning letter. If the convict does not pay the replacement money within a maximum of one month after the court decision has obtained permanent legal force, the prosecutor may confiscate his assets to be auctioned off to cover the replacement money.

Furthermore, if after the court decision has obtained permanent legal force, it is discovered that there are still assets belonging to the convict which are suspected or can be suspected of also originating from criminal acts of corruption which have not been subject to confiscation for the state as referred to in Article 38 B paragraph (2) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, then the state can file a civil lawsuit against the convict and/or his heirs.²⁷

The procedure for implementing the decision to award replacement money is as follows:²⁸

- a. The prosecutor waits until the corruption criminal verdict has permanent legal force and includes a replacement monetary penalty.

²⁶Lilik Mulyadi, 2011, *Criminal Acts of Corruption in Indonesia, Normative, Theoretical, Practice and Problems*, Alumni, Bandung, pp. 314-315

²⁷Mungki Hadipratikto, *Execution of Criminal Decisions on Replacement Money in Corruption Cases*, PSMH Untan Journal, Vol 8, No 2, 2012

²⁸Results of an interview with Rohmat Esa Hasan, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025

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- b. The prosecutor receives a copy of the decision from the court and checks whether there is a substitute fine and subsidiary sanctions (substitute imprisonment if not paid).
- c. The prosecutor calls the convict to pay the replacement money within the time period according to the verdict. If paid, the money is deposited into the state treasury through a designated account.
- d. If the convict does not pay voluntarily, the prosecutor will confiscate the convict's property according to the amount of the replacement money. In this case, the confiscation is carried out by a court order (if it has not been confiscated during the investigation). Furthermore, the prosecutor will cooperate with the State Auction Office (KPKNL) to sell the assets and the proceeds will be used to pay the replacement money.
- e. If the convict does not pay and his assets are insufficient, the prosecutor will impose a substitute prison sentence as stated in the decision.

In the case example, the defendant was sentenced to pay compensation of Rp. 733,495,075. In his verdict, the judge decided that the amount of compensation was taken into account by taking into account the amount of money and evidence that had been confiscated by investigators, where the total amount of money deposited was Rp. 272,550,000 that had been confiscated by investigators and the money above, confiscated for the state and calculated as a return on state financial losses, then calculated as a return on state losses for defendant Hermin Gildus Rangka and Witness Wensuslaus Derta. Thus, there is still a remaining arrears of compensation for state losses. In practice, until now the compensation for the compensation has not been paid 100%. This is because the prosecutor is still having difficulty in the assets of the convict's assets. This results in the prosecutor being unable to confiscate the convict's assets to be auctioned off to cover the compensation for state losses.²⁹

In the event that the defendant does not pay the replacement money within one month after the court decision has permanent legal force, then his/her property can be confiscated by Jaksa and auctioned to cover the replacement money. In the event that the convict does not have sufficient value of the property to pay the replacement money, then the convict is sentenced to 1 year in prison.

4. Implementation of criminal decisions on evidence in cases

The procedure for implementing criminal decisions related to evidence confiscated during the investigation and prosecution process is as follows:³⁰

- a. The prosecutor waits until the corruption criminal verdict has permanent legal force which states the status of the evidence. The status of the evidence is usually stated in the verdict such as returned to the rightful party, confiscated for the state, destroyed, used for education/training purposes, auctioned for the state.
- b. The prosecutor receives a copy of the verdict from the court and matches it with the evidence stored at the Rupbasann (State Confiscated Goods Storage House) or at the Prosecutor's/Police office. The prosecutor then verifies and prepares a report on the examination of

²⁹Results of an interview with Rohmat Esa Hasan, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025

³⁰Results of an interview with Rohmat Esa Hasan, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025

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the evidence.

c. The prosecutor makes a Letter of Order for the Execution of the Decision regarding the execution of evidence in accordance with the verdict, namely:

1) The evidence is returned, in this case an official handover is carried out and a report is made on the return of the evidence.

2) Evidence is seized for the state, if the evidence is seized for the state, the prosecutor will hand it over to the relevant state agency or record it as state property. If the evidence is in the form of money, it goes to the state treasury, and if the evidence is in the form of vehicles or other assets, it can be transferred according to the regulations.

3) Evidence is destroyed, if evidence is destroyed, the prosecutor will carry out the destruction of the evidence witnessed by the relevant parties (police, court, relevant agencies) and a report of the destruction will be made.

4) The evidence is auctioned, if the evidence is auctioned, the prosecutor carries out the auction through the KPKNL and the auction proceeds go into the state treasury.

d. All executions of evidence must be documented in the form of minutes of execution of evidence, minutes of handover/destruction/auction, and then report the implementation of the execution to the head of the prosecutor's office.

5. Carrying out a criminal decision in the form of payment of court costs of Rp. 5,000 to the defendant

The procedure for implementing the decision to pay court costs is as follows:

a. The prosecutor waited until the corruption criminal verdict had permanent legal force, which stated that the defendant was required to pay court costs of Rp. 5,000.

b. The prosecutor receives a copy of the decision from the clerk for the execution.

c. Making a letter of order to execute the verdict and then collecting the convict to pay the court costs in accordance with the verdict.

d. The prosecutor asked the convict to pay the court costs to the state treasury through a perception bank or state revenue post. After payment, the convict submitted proof of deposit.

e. The prosecutor records proof of payment in the execution file and reports on the implementation of the execution of the superior's court costs.

Based on the description above, it can be seen that the role of the prosecutor in implementing the judge's decision on corruption crimes is in the form of imprisonment, fines, compensation for state losses, decisions on evidence, and decisions on the imposition of court costs. In general, the implementation of corruption criminal decisions for the implementation of corporal punishment or imprisonment does not experience obstacles. In this case, the prosecutor as the executor or implementer immediately carries out the court decision if the decision has permanent legal force. The public prosecutor is tasked with carrying out the execution of the decision by notifying the defendant or the defendant's family of the decision and immediately placing the defendant in a Correctional Institution to carry out the sentence that has been imposed on the defendant.

The role of the prosecutor in implementing the decision in the form of replacing state losses

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is not easy, especially for the execution of additional criminal penalties in the form of payment of fines and payment of replacement money for state losses arising from the convict's actions. In the case of a fine, if the convict cannot pay, it can be replaced with imprisonment. However, regarding the replacement money, prosecutors sometimes have difficulty in tracking the convict's assets to be used to pay off the replacement penalty.³¹

Based on the description above, it can be seen that the role of the prosecutor in implementing the judge's decision has been carried out in accordance with his authority as regulated in the applicable laws and regulations, namely the Corruption Law, the Prosecutor's Law, and the Criminal Procedure Code. Based on Philipus M. Hadjon's theory of authority, the prosecutor's authority in implementing the judge's decision is attributive authority. The prosecutor obtains the authority to implement the judge's decision in corruption crimes directly from the laws and regulations as mentioned above. The authority of the prosecutor as the executor of the court decision is an important aspect in the criminal justice system in Indonesia. The basis for this authority is Article 270 of the Criminal Procedure Code which states that the implementation of a court decision that has obtained permanent legal force is the prosecutor.

The authority of the prosecutor as the executor of the judge's decision is also an authority that comes from delegation. In judicial practice, the one who automatically implements the court's decision is the prosecutor. However, regarding the validity of the implementation of the judge's decision by the prosecutor, there must be a delegation of authority from the authorized Head of the Prosecutor's Office which is manifested in the form of a letter of order to implement the judge's decision. Furthermore, the prosecutor who is ordered to implement the court's decision must base his duties on the limits stated in the letter of order.

The implementation of the judge's decision by the prosecutor is a series of criminal justice systems. According to the theory of the legal system put forward by Lawrence M. Friedman, the legal system consists of legal structure devices, legal substance (legislation) and legal culture or legal culture, which mutually support the running of the legal system in a country.³² The role of prosecutors in implementing judges' decisions in corruption crimes is supported by legal factors. In this case, the law has firmly determined that prosecutors have the authority to implement judges' decisions that have permanent legal force. However, in implementing judges' decisions related to compensation decisions, they often cannot be implemented 100 percent. In terms of the legal structure, this occurs because of the prosecutor's limitations when assets are insufficient or have been transferred to a third party, as well as the absence of an integrated asset tracking system. In addition, in terms of legal substance, the Corruption Law also does not regulate the tracking of convicts' assets, as a result, compensation money is not collected 100%.

The role of prosecutors in implementing the verdict of the judge on corruption crimes at the Ende District Attorney's Office has not fully fulfilled the principle of legal certainty. According to Jan Michael Otto, legal certainty in the material sense is the availability of clear, consistent, and accessible rules, issued by and recognized because of the (power of) the State;

³¹Results of an interview with Rohmat Esa Hasan, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025

³²Saifullah, Op.Cit, p. 26

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these regulations are applied, judges apply the legal rules themselves consistently when they resolve disputes, court decisions are implemented concretely. In the implementation of criminal decisions in the form of imprisonment, criminal fines, prosecutors can usually implement them immediately so that legal certainty is fulfilled. However, for the implementation of the replacement money decision, it has not been fully paid off, and often drags on even though the law explains that the time limit is only 1 month. This reflects that the implementation of the decision in the form of replacement money does not yet have legal certainty, even though the judge's decision has permanent legal force.

3.2. Obstacles in the Implementation of Judges' Decisions on Corruption Crimes at the Ende District Attorney's Office and Their Solutions

The implementation of judges' decisions on corruption crimes at the Ende District Attorney's Office does not always run smoothly. There are several obstacles that cause the execution process not to be carried out properly. These obstacles are:³³

1. Lack of functional prosecutors

Based on the results of research at the Ende District Attorney's Office, data was obtained that the number of prosecutors was 8 personnel. This number is not comparable to the cases that must be handled, especially functional prosecutors, while the authority and responsibilities of prosecutors are increasingly complex. This hampers the process of implementing judges' decisions, especially in corruption crimes, especially those that sentence defendants to pay compensation.

The solution to overcome these obstacles is to request additional prosecutors for special crimes who are seconded from prosecutors in other fields.

2. Difficulty in racing assets

Article 30A of the Prosecutor's Office Law has given the authority to the executing prosecutor to conduct tracing, confiscation, and return of assets obtained from criminal acts and other assets to the state, victims, or those entitled. However, in practice, prosecutors have difficulty tracing the assets of convicts. This is due to the non-transparency of data on convict assets where convicts have sometimes transferred their assets to third parties or other family members. The absence of an integrated system related to asset ownership data such as land certificates, vehicles, bank accounts and digital assets makes it even more difficult to track assets.

The solution to overcome these obstacles is to carry out asset racing from the investigation stage until the time before the implementation of the criminal sentence or imprisonment is completed.

3. Non-implementation of the replacement money decision

One of the fundamental issues that is very important and is of deeper concern in eradicating corruption today is how to restore state losses that are lost as a result of corruption, whether committed by individuals or corporations. Saving state money and assets is important to do, considering the facts and phenomena that have occurred so far that the eradication of

³³Results of an interview with Jane Clarita Ma'u, as Investigating Prosecutor at the Ende District Attorney's Office, May 26, 2025.

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criminal acts of corruption that has been carried out can only save 10-15 percent of the total money that is corrupted. As one of the criminal law instruments that allows saving state money from corruption, this legal instrument is considered more rational to achieve the goal of eradicating corruption, namely preventing state losses.³⁴

In the criminal act of corruption, regarding the return of state losses has been formulated in the law. With a formal formulation, it means that even though the proceeds of corruption have been returned to the state, the perpetrators of the criminal act of corruption are still brought to court and still punished in accordance with Article 4 of the Corruption Law which states that the return of state financial losses or the state economy does not eliminate the criminal punishment of the perpetrator of the crime as referred to in Article 2 and Article 3 of the Corruption Law. The explanation of the article is that in the case of the perpetrator of the crime of corruption committing an act that meets the elements of the article in question, where the return of the state financial losses or the state economy that has been carried out does not eliminate the criminal punishment of the perpetrator of the crime, it is only one of the mitigating factors.³⁵

In its implementation, it is quite difficult to return state losses that have been corrupted, this refers to various court decisions that impose relatively light prison sentences, exacerbated by the inability of the perpetrator to pay the fines and compensation that have been determined in the court decision. Therefore, the practice that occurs in the implementation of court decisions is that convicts only serve relatively/short prison sentences and do not pay fines or compensation payments. This is contrary to the principle of returning state losses adopted by the Corruption Law.³⁶

In the implementation of corruption criminal decisions at the Ende District Attorney's Office, in general, there are no obstacles to the implementation of corporal punishment. Often, the obstacle in the implementation of execution is the execution of additional punishment in the form of payment of fines and payment of compensation for state losses arising from the convict's actions. This is because prosecutors still have difficulty tracking the convict's assets.

The solution to overcome these obstacles is for the prosecutor to take a preventive approach to the convict's family to continue to make replacement payments in stages or in installments according to the amount of replacement money charged to the convict as stated in the judge's decision.

Based on the description above, it can be seen that in implementing the judge's decision on corruption crimes, the prosecutor meets several obstacles. Reviewed from Lawrence's legal system theory, obstacles affect the legal system. Reviewed from the legal substance, Article 18 of the Corruption Law does not regulate in detail the mechanism for tracking the assets of the convict. In addition, it also mentions the replacement of money with imprisonment, which is a lighter punishment than for the convict and does not provide a deterrent effect.

³⁴Guntur Rambey, *Restitution of State Losses in Corruption Crimes Through Payment of Replacement Money and Fines*, De Lega Lata Journal of Legal Studies, Vol.1 No.1, Medan, 2016, p. 138

³⁵Rudi Pardede, 2016, *Process of Restitution of State Losses Due to Corruption*, Genta Publishing, Yogyakarta, p. 116.

³⁶Ibid.

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As a result, the convict chooses imprisonment as a substitute punishment rather than returning state money, so that the state continues to suffer financial losses.

In terms of legal structure, the lack of functional prosecutors also affects the success of implementing judges' decisions. This is because functional prosecutors are tasked with handling various stages in the legal process, including the execution of court decisions. If the number of prosecutors is insufficient, then the cases handled by each prosecutor will be too many so that the process of implementing decisions (such as confiscation of assets, return of state losses, or detention of convicts) can be delayed or not optimal. Handling corruption crimes, especially in the execution stage, requires technical expertise such as assessing assets resulting from corruption, cross-agency coordination with the Corruption Eradication Committee (KPK), Police, BPK, DJKN, etc., and a deep understanding of state financial law. If the functional prosecutors handling the case are not enough or do not have a specialization, the effectiveness of implementing the decision can be very low.

Viewed from the community component, if the implementation of the judge's decision in a corruption case is not carried out properly, it can reduce public trust. Delays or failures in implementing decisions make the public see that the legal system is not strict against corruptors. This has an impact on the credibility of the prosecutor's office, low public perception of the effectiveness of corruption eradication.

4. Conclusion

1. The role of the prosecutor in implementing the judge's decision on corruption crimes at the Ende District Attorney's Office has been carried out with its authority as regulated in Article 270 of the Criminal Code, namely the task of carrying out prison sentences, recovering state losses and implementing fines. In this case, the prosecutor carries out the judge's decision in the form of imprisonment and fines smoothly, but it is different from the implementation of substitute money. In the implementation of the substitute money decision, the execution has been protracted and there is no certainty, because there are cases where it has been more than a month since the decision was read but the substitute money has not been paid by the convict. This can weaken public trust in the prosecutor's office. 2. Obstacles in the implementation of judges' decisions on corruption crimes at the Ende District Attorney's Office are the lack of functional prosecutors, difficulties in asset tracing, and the failure to implement the replacement money decision. The solution to overcome these obstacles is to add prosecutors for special crimes, conduct asset tracing from the investigation stage until before the implementation of the criminal sentence or imprisonment is completed, take a preventive approach to the convict's family to continue to make replacement money payments in stages or in installments according to the amount of replacement money charged to the convict as stated in the judge's decision.

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