

Law Enforcement of Corruption Crimes in the Buru District Attorney's Office with Legal Certainty (Case Study: Decision No. 40/Pid.Sus-Tpk/2022/Pn.Amb)

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Abstract. *In enforcing corruption laws, the Prosecutor's Office has dual authority: conducting investigations, prosecuting, and enforcing criminal decisions. In practice, several obstacles remain, including difficulties in implementing decisions regarding payment of fines and restitution of state losses. This study aims to examine and analyze the enforcement of corruption laws at the Buru District Prosecutor's Office, the judge's considerations in Decision No. 40/Pid.Sus-Tk/2022/PN.Amb, and future corruption law enforcement in Indonesia. This research uses a sociological juridical approach, with descriptive analytical research specifications. The data used are primary and secondary data. Data collection methods include field studies and literature reviews, and data analysis methods are qualitative. The theories used in this research are the theory of justice, the theory of legal systems and the theory of legal certainty. Based on the research results it can be concluded that the law enforcement of corruption crimes at the Buru District Attorney's Office, particularly in decision Number 40/Pid.Sus-Tk/2022/PN.Amb, has complied with statutory regulations, both in investigations, indictments, prosecutions, and the implementation of judges' decisions. The judge's considerations in decision Number. 40/Pid.Sus-Tk/2022/PN.Amb are appropriate, namely by considering the fulfillment of the elements of the indictment, considering the level of guilt of the defendant, considering the category of state losses caused by the defendant's actions, considering the impact of the defendant's actions, and the benefits obtained by the defendant. In addition, the judge also considered the category of state losses based on the Sentencing Range Matrix of Supreme Court Regulation Number 1 of 2020. Through appropriate considerations, a fair decision was produced. Law enforcement of corruption crimes in Indonesia in the future by the prosecutor's office is to carry out investigations, prosecutions and implement judges' decisions in accordance with the authority regulated in the law. In the future, demands should always include additional penalties in the form of compensation for state losses, realizing criminal penalties for paying fines and compensation for state losses by making maximum efforts by collecting, confiscating assets and auctioning in accordance with statutory provisions and not implementing subsidiary penalties in the form of fines and compensation for convicts.*

Keywords: *Corruption; Criminal; Enforcement; Law.*

1. Introduction

Indonesia is a country based on law, as stated in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia (UUD 1945) which states that "Indonesia is a country based on law." A country based on law is essentially a country whose activities are always based on law.¹ This article requires that every citizen of the nation and state/government in all their activities must submit to and be based on the law (nomocracy).²

Indonesia's concept of a constitutional state is integrative, combining various concepts of the legal state, such as the rule of law, the rule of law, and religious spiritual values. Therefore, laws and regulations (*rechtsstaat*) must be placed within the framework of law enforcement to achieve justice (the rule of law).³

In Indonesia today, numerous regulations have been issued to maintain the continuity of national and social life. The issuance of these regulations reflects the existence of legal norms created to regulate the rights and obligations of the state and society. The implementation of regulations containing these legal norms is essentially part of law enforcement. Violations or deviations from applicable laws will be subject to criminal sanctions in accordance with the provisions stipulated in the law. In this case, criminal law is used.⁴

One form of deviation from the law is corruption. In criminology literature, corruption is considered a type of "white-collar crime." Corruption attracts public attention because the perpetrators are considered respected or prominent, yet they are the ones who create misery in society.⁵ Corruption as an extraordinary crime not only harms the state but also erodes the values of democracy, ethics, and social justice which are important pillars in community life.

Corruption is considered the most dangerous problem in Indonesia. The current development of corruption in Indonesia has become so severe that it has become an extraordinary problem because it has spread and penetrated all levels of society.⁶ Considering that corruption in Indonesia occurs systematically and widely, so that it not only harms state finances, but also violates the social and economic rights of the community at large, corruption eradication is carried out using extraordinary means.

Indonesia has had legislation to combat corruption since 1971, namely Law Number 3 of 1971 concerning the Eradication of Criminal Acts of Corruption. However, because this regulation was deemed no longer able to keep up with the development of legal needs in society, it was amended to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of

¹M. Mulsih, The Indonesian Legal State in the Perspective of Gustav Radbruch's Legal Theory (Three Basic Legal Values), *Legality*, June 2013 Edition Volume IV Number 1, p. 131

²Moh. Mahfud MD, 2010, *Constitution and Law in Controversial Issues*, Rajawali Pers, Jakarta, p. 40.

³Moh Mahfud MD, 2011, *Debate on Constitutional Law after the Constitutional Amendment*, Rajawali Pers, Jakarta, 2011, p. 52

⁴Caswadi and Andri Winjaya Laksana, Ideal Formulation of Corruption Crime Investigation Conducted Under Certain Circumstances, *Ratio Legis Journal*, Volume 3 No. 4, December 2024, p. 835

⁵Haris Fadillah Harahap and Widayati the Law Enforcement against the Personnel of Corruption Crime, *Law Development Journal*, Volume 2 Issue 4, December 2020, p. 526

⁶Andi Hamzah, 2003, *Corruption in Indonesia: Problems and Solutions*, Gramedia Pustaka Utama, Jakarta, p. 4.

Corruption, which was later revised through Law Number 20 of 2001 in several articles.⁷

In the context of law enforcement against corruption, the Prosecutor's Office has a strategic position as a law enforcement agency given special authority in handling corruption. This is as regulated in Article 30 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia as amended by Law Number 11 of 2021 (Prosecutor's Office Law), which states that in the criminal field, the Prosecutor's Office has the duty and authority to prosecute, implement judge's decisions and court decisions that have obtained permanent legal force and conduct investigations into corruption crimes. Article 39 of the Prosecutor's Office Law also states that the Attorney General coordinates and controls investigations, inquiries, and prosecutions of corruption crimes carried out jointly by persons subject to the General Court and Military Court.

2. Research Methods

The approach used in this research is a sociological-juridical approach, namely studying and researching the reciprocal relationship between law and other social institutions. In empirical research, law is not conceived as an independent normative phenomenon, but as a social institution that is actually linked to social variables. Law, which is empirically a social phenomenon, on the one hand, can be studied as a causal variable (independent variable) that gives rise to consequences in various aspects of social life. In addition, law can also be studied as a dependent variable that arises as the end result of various forces in the social process.⁸

This study initially examined secondary data, followed by further research on primary data in the field or on actual practice. The issue discussed here is the enforcement of corruption laws at the Buru District Attorney's Office.

3. Results and Discussion

3.1. Law Enforcement of Corruption Crimes at the Buru District Attorney's Office in Decision Number 40/PID.SUS-TK/2022/PN.AMB

Corruption is a special form of criminal law that has specific characteristics that differ from general criminal law, one of which is the existence of deviations from procedural law. From a procedural perspective, investigations into corruption are conducted in a manner that deviates from the investigation of criminal acts in general.⁹ where investigations into criminal acts of corruption are not only the responsibility of the police, but also the responsibility of the Prosecutor's Office.

As a law enforcement agency, the Prosecutor's Office is required to play a greater role in enforcing the law against corruption. The Prosecutor's Office is authorized by law to enforce

⁷Ermansjah Djaja, 2010, *Eradicating Corruption with the KPK (Corruption Eradication Commission)*, Sinar Grafika, Jakarta, p. 13.

⁸Ronny Hanitijo Soemitro, 1988, *Legal Research Methods and Jurimetrics*, Jakarta: Ghalia Indonesia, p. 34.

⁹Christty D. Salindeho, *The Role of Prosecutors as Investigators in Revealing Criminal Acts of Corruption*, Lex Privatum, Vol. IV No. 4, April 2016, p. 74.

corruption as an investigator, public prosecutor, and enforcer of judges' decisions.

1) Investigation

The position of the Prosecutor's Office in the criminal justice system is crucial, given that it is the prosecutor who connects the investigation stage with the examination stage in court. Based on applicable legal doctrine, a principle holds that the public prosecutor has a monopoly on prosecution, meaning that no person can be tried until a criminal charge is filed by the Public Prosecutor, in this case the prosecutor's office. Only the Public Prosecutor has the authority to bring a person suspected of committing a crime before a court.¹⁰

The prosecutor's authority in investigating corruption crimes is basically the authority to investigate according to special provisions in criminal procedure law, namely Article 17 of Government Regulation Number 27 of 1983 concerning the implementation of the Criminal Procedure Code which states that investigations according to special provisions of criminal procedure as referred to in Article 284 paragraph (2) of the Criminal Procedure Code are carried out by investigators, prosecutors and other authorized investigative officials based on statutory regulations.

The authority to conduct investigations into corruption crimes is also regulated in Article 30 paragraph (1) letter d of the Attorney General's Law which states that in the criminal field, the attorney general has the duty and authority to conduct investigations into certain crimes based on the law. In the explanation of Article 30 paragraph (1) letter d of the Attorney General's Law it is stated that the authority in this provision is the authority as regulated for example in Law Number 26 of 2000 concerning the Human Rights Court and Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 in conjunction with Law Number 30 of 2002 concerning the Corruption Eradication Commission.

At the Buru District Attorney's Office, law enforcement efforts against corruption crimes are not only as public prosecutors, but also as investigators, public prosecutors, and as executors of judges' decisions (executors). One of the corruption cases handled by the Buru District Attorney's Office, from investigation, prosecution to the implementation of the judge's decision, is in decision Number 40/Pid.Sus-TPK/2022/PN.Amb, which is a criminal act of alleged financial misuse of Skikilale Village, Waplau District, Buru Regency, in the 2019 Fiscal Year with the suspect Sebly Latu Perissa.

Based on the results of research at the Buru District Attorney's Office, the process of investigating corruption cases at the Attorney General's Office is guided by the Technical Instructions for the pattern of handling quality special criminal cases Number: B-845/F/Fjp/05/2018 dated May 4, 2018. These technical instructions are a system or method of working in handling special criminal cases that are integrated with each other, including receiving reports/public complaints, investigations, pre-prosecution, prosecution, trials,

¹⁰Yudi Kristiana, 2006, Independence of the Prosecutor's Office in Corruption Investigations, PT Citra Aditya Bakti, Bandung, p. 52.

extraordinary legal remedies, execution and examination.¹¹For further clarification, the following describes the position of the case in decision number 40/Pid.Sus-TK/2022/PN.Amb as follows:

The suspect Seibly Latuperissa, in February 2019 until December 2019 or at least at another time which was still in 2019 located in Skikilale Village, Waplau District, Buru Regency or at least in another place which is still included in the jurisdiction of the Corruption Crime Court at the Ambon District Court, with the aim of benefiting himself or another person or a corporation, by abusing the authority, opportunity or means available to him because of his position or position as Acting Village Head, which can harm state finances or the state economy in the amount of IDR 688,797,468.81 (six hundred eighty eight million seven hundred ninety seven thousand four hundred sixty eight rupiah and eighty one cents) or at least around that amount, as per the State Loss Calculation Audit Report of the Buru Regency Inspectorate Number: 700.X/01/ITKAB/I/2022, dated January 18, 2022, has unlawfully misused Village Funds (DD), Village Fund Allocation (ADD), Tax Revenue Sharing (BHP) and Retribution Revenue Sharing (BHR) funds for Skikilale Village for the 2019 budget year in contravention of:

a. Article 2 of the Republic of Indonesia Government Regulation Number 60 of 2014 concerning Village Funds sourced from the APBN states: "Village Funds are managed in an orderly manner, in accordance with the provisions of laws and regulations, efficiently, economically, effectively, transparently and responsibly, taking into account the sense of justice and compliance and prioritizing the interests of the local community."

b. Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 20 of 2018 concerning Village Financial Management: a) Article 51 paragraph (1): "cash outflow as referred to in Article 49 contains all expenditures at the expense of the Village APB"; b) Article 51 paragraph (2): "every expenditure as referred to in paragraph (1) is supported by complete and valid evidence"; c) Article 51 paragraph (3): "evidence as referred to in paragraph (2) has the approval of the Village Head and the Village Head is responsible for the material truth arising from the use of said evidence".

The act was carried out by the defendant in the following manner and circumstances: To obtain the Village Fund Allocation Budget and Skikilale Village Fund for the 2019 Fiscal Year, the Skikilale Village Apparatus together with elements of the Skikilale Village community held a Village Deliberation to discuss programs or activities to be implemented in the 2019 Fiscal Year, then the results of the Village Deliberation were outlined in the form of a Draft Village Regulation on the Village Revenue and Expenditure Budget (APB) addressed to the Regent of Buru through the Village Community Empowerment Service of Buru Regency; then the Draft Village Regulation on the Village Revenue and Expenditure Budget (APB) for the 2019 Fiscal Year contains a draft of activities equipped with a Budget Plan (RAB) and after approval, the Village Head issued Village Regulation Number: 03 of 2019 concerning the Village Revenue and Expenditure Budget for the 2019 Fiscal Year amounting to IDR 2,204,092,000 with details

¹¹Results of an interview with Mr. Dhanitya Putra Prawira, Head of the Special Crimes Investigation Section of the Buru District Attorney's Office, July 25, 2025.

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of Village Fund: IDR 1,451,886,000; ADD: IDR 710,201,000; BHP and BHR: IDR 42,005,000.

In accordance with Village Regulation Number: 03 of 2019 concerning the Village Revenue and Expenditure Budget for the 2019 Fiscal Year amounting to IDR 2,204,092,000 (two billion two hundred four million ninety-two thousand rupiah) is allocated for the following activities:

- 1) Village Government Administration Sector, amounting to IDR 743,216,000
- 2) Village Development Sector, amounting to IDR 1,194,136,000
- 3) Community Development Sector amounting to IDR 8,990,000
- 4) Community Empowerment Sector amounting to IDR 257,750,000

Furthermore, Skikilale Village for the 2019 Fiscal Year received a Budget that was not in accordance with Village Regulation Number: 03 of 2019 concerning the Village Revenue and Expenditure Budget for the 2019 Fiscal Year, amounting to IDR 2,192,092,000. In disbursing the Skikilale Village Budget for the 2019 Fiscal Year based on the Fund Disbursement Order (SP2D) from the Regional Financial and Asset Management Agency (BPKAD) amounting to IDR 2,174,507,000,- with the following details:

Disbursement of Village Fund Allocation (ADD) namely:

- a. Fund Disbursement Order (SP2D) Number: 1572/LS/2019 Dated June 25, 2019 concerning the Disbursement of Skikilale Village Fund Allocation amounting to IDR 142,040,200,-
- b. Fund Disbursement Order (SP2D) Number: 2044/LS/2019 Dated July 22, 2019 concerning the Disbursement of Skikilale Village Fund Allocation amounting to IDR 284,080,400,-
- c. Fund Disbursement Order (SP2D) Number: 4767/LS/2019 Dated December 23, 2019 concerning the Disbursement of Skikilale Village Fund Allocation amounting to IDR 284,080,400,-

Disbursement of Village Funds (DD) namely:

- a. Fund Disbursement Order (SP2D) Number: 1571/LS/2019 Dated June 25, 2019 concerning the Disbursement of Skikilale Village Funds amounting to IDR 290,377,200,-
- b. Fund Disbursement Order (SP2D) Number: 2045/LS/2019 Dated July 22, 2019 concerning the Disbursement of Skikilale Village Funds amounting to IDR 580,754,400,-
- c. Fund Disbursement Order (SP2D) Number: 4624/LS/2019 Dated December 19, 2019 concerning the Disbursement of Skikilale Village Funds amounting to IDR 580,754,400,-

Disbursement of Revenue Sharing Retribution (BHR), namely: with Fund Disbursement Order (SP2D) Number: 5348/LS/2019 Dated December 31, 2019 concerning Disbursement of Revenue Sharing Retribution to Skikilale Village in the amount of IDR 12,420,000,-

Next, the defendant ordered witness Anthoni Waemese as the Head of Finance of SKikilale Village to disburse the Village Fund Budget and Village Fund Allocation at the Namlea Branch

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of BNI Bank, then on the grounds that the defendant was the Budget User Authority (KPA) who signed the Integrity Pact and Statement of Responsibility regarding the Finances of the Village Fund Budget (DD), Village Fund Allocation (ADD) and Revenue Sharing of Retribution (BHR) of Skikilale Village for the 2019 Fiscal Year, ordered witness Anthoni Waemese to bring the money to be kept at the defendant's house for the defendant to manage and spend;

The defendant in managing the Village Fund Budget (DD), Village Fund Allocation (ADD) and Revenue Sharing of Retribution (BHR) of Skikilale Village for the 2019 Fiscal Year was carried out by making expenditures for Development activities in Skikilale Village in the 2019 Fiscal Year, namely the Construction of Village Office Works, Construction of Land Retaining Walls and Construction of Concrete Roads.

In making purchases of building materials for the construction activities mentioned above, the defendant asked for blank receipts from several shops, after which the defendant gave the blank receipts to witness Anthoni Waemese and witness Victor Tasidjawa as the Secretary of Skikilale Village in 2019, then the defendant ordered witness Anthoni Waemese and witness Victor Tasidjawa to write the blank receipts according to the number of goods and prices of goods listed in the Draft Budget (RAB) of Skikilale Village for the 2019 Fiscal Year. The defendant in managing the Village Fund Budget (DD), Village Fund Allocation (ADD) and Revenue Sharing of Retribution (BHR) of Skikilale Village for the 2019 Fiscal Year there were fictitious activity expenditures amounting to IDR 387,990,000. Village Fund Allocation (ADD) and Revenue Sharing of Retribution (BHR) of Skikilale Village for the 2019 Fiscal Year there were excess expenditure activities (Mark Up) amounting to IDR 82,920,455,-

In managing the Village Fund Budget (DD), Village Fund Allocation (ADD) and Revenue Sharing of Retribution (BHR) of Skikilale Village for the 2019 Fiscal Year, there was a shortage of work volume of IDR 217,887,013.81, which based on calculations by construction experts from the Ambon State Polytechnic on the physical construction of the Skikilale Village Office building, there was a loss of IDR 65,867,600, - which is the difference in the calculation of the work volume (IDR 362,749,500, - IDR 296,881,900, -) with the following details:

a. Village office construction

Based on this data, the State Financial Loss Calculation (PKKN) audit team of the Buru Regency Inspectorate conducted a recalculation and obtained the following results:

- 1) The initial budget based on the Village Budget is IDR 362,749,500, consisting of non-tax expenditure of IDR 338,635,220 and tax of IDR 24,114,280.
- 2) The ceiling according to expert calculations is IDR 296,881,900, consisting of non-tax expenditure of IDR 278,317,845 and tax of IDR 18,564,055.

So the losses can be described as follows:

- 1) Tax-free shopping of IDR 60,317,375,- (338,635,220 – 278,317,845)
- 2) Tax of IDR 12,893,940,- (24,114,280 – 11,220,340). IDR 11,220,340,- is the tax that has been paid.

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3) Total loss of IDR 73,211,315,- (60,317,375 + 12,893,940)

b. Construction of 400 meters of concrete road

Based on the calculations of construction experts from Ambon State Polytechnic regarding the construction of the 400-meter Concrete Rabat Road, there was a loss of IDR 73,274,827, - which is the difference in the calculation of the work volume (IDR 201,252,300 - IDR 127,977,473). Based on this data, the State Financial Loss Calculation (PKKN) audit team of the Buru Regency Inspectorate conducted a recalculation and obtained the following results:

- 1) The initial budget based on the Village Budget is IDR 201,252,300, consisting of non-tax expenditure of IDR 187,584,832.27 and tax of IDR 13,667,467.73.
- 2) The ceiling according to expert calculations is IDR 127,977,473,- consisting of non-tax spending of IDR 121,962,400, and tax of IDR 6,015,072.18,-.

So the losses can be described as follows:

- 1) Tax-free shopping of IDR 65,622,431.45,- (IDR 187,584,832.27 – IDR 121,962,400.82).
- 2) The excess tax payment of IDR 12,829.27,- is obtained from the tax of IDR 13,667,467.73 – IDR 13,680,297,- (IDR 13,680,297,- is the tax that has been paid). The excess tax payment of IDR 12,829.27 is considered an error in calculating the amount of tax and does not harm regional/state finances.
- 3) So the total loss is IDR 65,622,431.45

c. Construction of a 150-meter retaining wall

Based on calculations by construction experts from Ambon State Polytechnic regarding the construction of a 150-meter retaining wall, there was a loss of IDR 88,251,700,- which is the difference in the calculation of the work volume (IDR 340,162,500 – IDR 251,910,800).

Based on this data, the State Financial Loss Calculation (PKKN) audit team of the Buru Regency Inspectorate carried out recalculations and obtained the following results:

- 1) The initial budget based on the Village Budget is IDR 340,162,500, consisting of non-tax expenditure of IDR 319,809,900.45 and tax of IDR 20,352,599.55.
- 2) The ceiling according to expert calculations is IDR 251,910,800, consisting of non-tax spending of IDR 240,756,633.09 and tax of IDR 11,154,166.91.

So the losses can be described as follows:

- 1) Shopping without tax amounted to IDR 79,053,267.36 which is the difference (IDR 319,809,900.45 – IDR 240,756,633.09)
- 2) The excess tax payment of IDR 110,606.45 is considered an error in calculating the amount of tax and does not harm regional/state finances.

3) So the total loss is IDR 79,053,267.36

To account for the management of the Village Fund budget and Village Fund Allocation of Skikilale Village phase I and phase II of the 2019 fiscal year, the defendant attached proof of expenditure in the form of a receipt written by witness Anthoni Waemese and witness Victor Tasidjawa in accordance with the number of goods and prices of goods listed in the Draft Budget (RAB) of Skikilale Village for the 2019 fiscal year, which previously the receipt was obtained by the Defendant in an empty state so that it appeared as if the receipt was complete and valid evidence.

When Witness Anthoni Waemese and Witness Victor Tasidjawa told the defendant that the blank receipt given was not sufficient to cover the value in the 2019 budget year of the Skikilale Village Budget Plan (RAB), then the Defendant or Witness Anthoni Waemese and Witness Victor Tasidjawa, on the defendant's orders, went to the shop to ask the shop to put the shop's stamp on the receipt.

Evidence of incorrect payment whose value is adjusted to the value of the Draft Budget (RAB) of Skikilale Village for the 2019 fiscal year, is attached to the Accountability Report for the Skikilale Village budget phase I and II for the 2019 fiscal year, as if the Village financial management is in accordance with the APBDesa of Skikilale Village for the 2019 fiscal year. Meanwhile, in the financial management of Skikilale Village phase III which has been disbursed, no accountability has been made. Because Witness Anthoni Waemese and Witness Victor Tasidjawa have carried out the defendant's orders in compiling the Accountability Report for the management of the Skikilale Village budget for the 2019 fiscal year, the defendant gave witnesses Anthoni Waemese and witness Victor Tasidjawa money amounting to IDR 15,000,000 each.

Based on the description of the example case above, it can be seen that there is an alleged criminal act of corruption committed by the suspect Seibly Latuperissa. In the investigation into the criminal act of corruption in the misuse of finances in Skikilale Village, Waplau District, Buru Regency, Fiscal Year 2019 with the suspect Seibly Latu Perissa, it was carried out in 2022, where the Buru District Prosecutor's Office received a public complaint report regarding "Alleged Misuse of Finances in Skikilale Village, Waplau District, Buru Regency, Fiscal Year 2019". The report was then followed up by reviewing the complaint report based on Government Regulation of the Republic of Indonesia Number 43 of 2018 concerning Procedures for Implementing Community Participation and Awarding in Preventing and Eradicating Criminal Acts of Corruption, including the locus and tempus of the event, the identity of the reporter and the reported party, a description of the material of the report of irregularities, attached documents and documentation as initial evidence of irregularities. The conclusion of the review is that the complaint report can be followed up by issuing a Task Order to conduct an in-depth investigation into the description of the alleged irregularities.¹²

That the Special Crimes Team (Pidsus) of the Buru District Attorney's Office concluded that in the description of the incident there were indeed indications of irregularities so that the

¹²Ibid.

public complaint report was upgraded to the investigation stage. At the investigation stage, a summons was made to the Acting Head of Skikilale Village in 2019, namely Mr. Sebly Latuperissa, all village officials and the Village Consultative Body, as well as the Village Community Empowerment Service. The investigation team conducted a random check in the field, namely Skikilale Village to analyze the incident whether it was a crime or not, then the Investigation Team coordinated with the Buru Regency Inspectorate to conduct an Investigation Audit and the results of the Investigation Audit found an unreasonable expenditure of IDR 688,797,468.81, - which was carried out by the Acting Head of Skikilale Village, namely Mr. Sebly Latuperissa, and then the Buru District Attorney's Investigation Team increased the status of the case to the Investigation Stage.¹³

At the investigation stage, the Buru District Attorney's Investigation Team immediately conducted a search at the Skikilale Village Office and the residence of the Skikilale Village Head to look for evidence related to the criminal incident, then after being found, the Buru District Attorney's Investigation Team immediately carried out a confiscation which had been issued by the Ambon Special Corruption Crimes District Court. Then the investigation team conducted an examination of witnesses, state financial experts, then after the Buru District Attorney's Investigation Team was of the opinion that the evidence had been fulfilled, Mr. Sebly Latuperissa as the Acting Head of Skikilale Village for the 2019 Fiscal Year was determined as a suspect who was suspected of violating Primary Article 2 Paragraph (1) Jo. Article 18 Paragraph (1) letter b of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Subsidiary Article 3 Jo. Article 18 Paragraph (1) letter b of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.¹⁴

2) Making of the indictment

At the prosecution stage, as a guideline in prosecuting corruption crimes is the Technical Instructions for the pattern of handling quality special criminal cases Number: B-845/F/Fjp/05/2018 dated May 4, 2018. Before prosecution is carried out, there is a Pre-Prosecution stage, namely the Investigating Prosecutor submits the case file to the Research Prosecutor to be checked for formal and material completeness, after the Research Prosecutor is of the opinion that the case file is complete (P.21) followed by the submission of the suspect and evidence from the Investigating Prosecutor to the Public Prosecutor, at this stage the Public Prosecutor has prepared an Indictment Plan to be exposed or case title before being submitted to the Court for trial.

Based on the results of the interview with Mr. Dhanitya Putra Prawira, the making of the indictment was based on the consideration of the fulfillment of the criminal act committed by the defendant by fulfilling the elements in the formulation of the articles charged. At the stage of proof in the trial, the Public Prosecutor proved the subsidiary charge of Article 3 Jo. Article 18 Paragraph (1) letter b of Law Number 31 of 1999 as amended and supplemented

¹³Ibid.

¹⁴Ibid.

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by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption as its elements "any person who with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or position which is detrimental to state finances or the state economy", by fulfilling the following elements:

a. The elements of every person

That Mr. Seibly Latuperissa was proven in court not to deny his identity in the indictment, is physically and mentally healthy, and is someone who can be held responsible for all his actions.

b. The element of abusing the authority, opportunity or means available to him due to his position or position

That Mr. Seibly Latuperrisa as Acting Head of Skikilale Village has the authority as stated in Article 26, Article 27 of Law Number 6 of 2014 concerning Villages, Article 3 Paragraph (2) of Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 113 of 2014 concerning Village Financial Management; Mr. Seibly Latuperrisa manages his own finances without involving village officials, falsifies financial accountability notes and uses village finances not in accordance with the Village Budget and is used for personal interests.

c. Elements with the aim of benefiting oneself or another person or a corporation

That Mr. Seibly Latuperrisa in the trial facts could not prove that the finances of Skikilale Village for the 2019 Fiscal Year had been used properly and it was revealed in the trial facts that the village finances were enjoyed or used for the personal interests of Mr. Seibly Latuperrisa.

d. Elements that are detrimental to state finances or the state economy

That it was revealed in the trial facts based on the results of the audit of the calculation of state financial losses by the Buru Regency Inspectorate Number: 700.X/01/ITKAB/I/2022 dated January 18, 2022, there were fictitious activities amounting to IDR387,990,000,-; mark-up spending of IDR82,920,455,-; a shortage in construction work volume of IDR217,887,013.81,- and other irregularities so that the total state financial loss was IDR688,797,468.81,-

In this case, the prosecutor charged the defendant with the following charges:

a. Primair:

Defendant Seibly Latuperissa, as regulated and threatened with criminal penalties in Article 2 paragraph (1) Jo. Article 18 paragraphs (1), (2) and (3) of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption

b. Subsidiaries:

The defendant's actions are as regulated and subject to criminal penalties in Article 3 in conjunction with Article 18 paragraphs (1), (2) and (3) of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption

3) Prosecution

In this case, the Public Prosecutor Team is of the opinion that the formal and material descriptions in the Indictment (P.29) have led to the elements of the article charged, so the case is worthy of being transferred to the Court for trial until a judge's decision is issued. Furthermore, based on the judge's decision which has permanent legal force, the prosecutor implements the judge's decision in accordance with the verdict.¹⁵

Based on the above considerations, the Public Prosecutor demanded that Sebly Latuperrisa impose a prison sentence of 3 years and 6 months minus the time the defendant has been in detention with the order that the defendant remain in detention, a fine of IDR 75,000,000, - subsidiary to 5 months imprisonment and an additional penalty of paying compensation of IDR 688,797,468.81, - subsidiary to 2 years imprisonment.

3.2. The Judge's Consideration in Decision Number 40/PID.SUS-TK/2022/PN.AMB

A judge's decision contains formal and substantial dimensions that are inseparable from one another. Formally, it must comply with the rules of procedural law, and substantially, it must embody divine values as the theological basis for justice for humanity. Judges must not be negligent, lazy, careless, or even dishonest. Judges must possess extensive knowledge to accurately understand and comprehend the case. Judges must possess a clear conscience to calmly interpret legal events and render a just decision. Before examining a case, judges should first consult their conscience or listen to the verdict of their conscience and then seek articles in the regulations to support the decision.¹⁶

Article 14 of Law Number 48 of 2009 concerning Judicial Power (the Judiciary Law) states that decisions are made based on a confidential deliberation session of judges. In this deliberation session, each judge is required to submit written considerations or opinions regarding the case being examined, which become an integral part of the decision. If the deliberation session cannot reach a unanimous agreement, then the dissenting judge's opinion must be included in the decision. The provisions of Article 14 of the Judiciary Law are also in line with the provisions of Article 53 of the Judiciary Law, which emphasizes that in examining and deciding cases, judges are responsible for the decisions and decisions they make. These decisions and decisions must contain the judge's legal considerations based on appropriate

¹⁵Ibid.

¹⁶Satjipto Rahardjo, 2003, "Sociology of Judges", in the book *Other Sides of Indonesian Law*, Kompas, Jakarta, p. 225.

and correct legal reasons and grounds.¹⁷

The Judiciary Act does not provide a definition clear regarding what is meant by "correct and proper" in relation to the process of examining, trying, and deciding a case, as well as the final product in the form of a judge's decision, but in other parts the combination of the words "good and proper" is also used, namely in the explanation of Article 48 paragraph (1) or the words "truth and justice" in the explanation of Article 48 paragraph (2) of the Judiciary Law. In essence, the law emphasizes the same message, namely that every decision must contain reasoned considerations and be based on law, which are expressed in a quality manner, in the sense that they are conveyed precisely, correctly, well, and fairly.¹⁸

The Judicial Law also regulates the factors that judges must pay attention to when making decisions, namely Article 5 paragraph (1) of the Judicial Law which states that judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that exist in society. Furthermore, Article 8 paragraph (2) of the Judicial Law states that in considering the severity of the crime, judges are also obliged to pay attention to the good and bad character of the defendant.

In addition to the Judicial Law, the Criminal Procedure Code also regulates the factors that must be considered by judges in making decisions, Article 183 of the Criminal Procedure Code states that a judge may not sentence someone unless with at least two valid pieces of evidence he or she is convinced that a crime has actually occurred and that the defendant is guilty of committing it. Furthermore, Article 197 paragraph (1) point f of the Criminal Procedure Code states that a criminal decision letter contains articles of statutory regulations that are the basis for the sentence or action and articles of statutory regulations that are the legal basis for the decision, along with aggravating and mitigating circumstances for the defendant.

In decision Number 40/Pid.Sus-TK/2022/PN.Amb, it was stated that the defendant Sebly Latuperissa was legally and convincingly proven guilty of committing the crime of corruption as stated in the subsidiary indictment and sentenced the defendant Sebly Latuperissa to 4 (four) years in prison and a fine of IDR 200,000,000, - with the provision that if the fine is not paid, it will be replaced with 3 (three) months in prison. The judge also sentenced the defendant Sebly Latuperissa to pay compensation for state financial losses amounting to IDR 688,797,468.81, - which was reduced by IDR 30,000,000, - which had been confiscated by the Public Prosecutor, so that the remaining compensation that must be returned by the Defendant is IDR 658,797,468.81, - with the provision that if the Defendant does not pay the compensation no later than 1 (one) month after the court decision has permanent legal force, then the defendant's assets can be confiscated by the Prosecutor and auctioned to cover the compensation, in the event that the Defendant does not have sufficient assets to pay the compensation, he will be sentenced to 1 (one) year in prison.

¹⁷Shidarta, 2024, "Application of Philosophical, Juridical, and Sociological Aspects in the Considerations of Judges' Decisions", in the book Anthology of Photographing Considerations of Haim Decisions from Various Perspectives, Secretariat General of the Judicial Commission of the Republic of Indonesia, Jakarta, p. 19.

¹⁸Ibid., p. 20.

In determining the verdict, the judge, with considerations based on the evidence and the evidence submitted, obtained legal facts, namely, that the defendant as the Acting Head of Skikilale Village is the Holder of Village Financial Management Authority who, because of his position, has the authority to carry out the overall financial management of Skikilale Village, has committed a criminal act of corruption and is charged with subsidiary charges, namely: Primary charge: the actions of the defendant Sebly Latuperissa as regulated and threatened with criminal penalties in Article 2 paragraph (1) in conjunction with Article 18 paragraphs (1), (2) and (3) of the Corruption Law, and subsidiary charges: the defendant's actions as regulated and threatened with criminal penalties in Article 3 in conjunction with Article 18 paragraphs (1), (2) and (3) of the Corruption Law. Therefore, the Panel of Judges first considered the primary charges as regulated in Article 2 paragraph (1) in conjunction with Article 18 of the Corruption Law, the elements of which are as follows:

1) Each person

The definition of every person in a criminal act of corruption has been regulated in Article 1 point 3 of the Corruption Law, namely an individual or including a corporation, according to the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 1398 K/Pid/1994 dated June 30, 1995 the definition of "Every person" is equated with the word "Whoever" and what is meant by "Whoever" is every person or anyone who commits a criminal act as a legal subject who can be held legally responsible for all his actions. The definition of every person as described above, when connected with the definition of every person contained in Article 2 paragraph (1) of Law Number 31 of 1999, the Panel is of the opinion that the definition of every person in Article 2 paragraph (1) is general in nature, namely whether the perpetrator of the criminal act of corruption is a civil servant as contained in Article 1 paragraph (2) of the Corruption Law or not a civil servant. Considering, that the element of each person which is general in nature legally contains the meaning that the legal subject in a criminal act is a person or person, namely anyone, whether an individual, civil servant, public official, state official or private as a legal subject who has committed a criminal act as long as he is able to account for his actions in the sense that he is not found to have any excuse or justification that can eliminate his guilt. The Public Prosecutor has submitted an individual as a defendant in the case, namely Defendant Sebly Latuperissa, which is clearly stated in the indictment, and the Defendant does not deny his identity as read by the Public Prosecutor at the beginning of the trial. Considering that the indictment states that the Defendant Sebly Latuperissa is a "person" who serves as Acting Head of Skikilale Village, and the defendant as a legal subject is brought to this trial in a healthy physical and mental state because during the trial the Defendant has paid attention and understood the contents and intent of the indictment read by the Public Prosecutor and the Defendant can also answer or deny each question well so that there is no obstacle to being responsible for his actions, thus the Panel of Judges is of the opinion that the element of "every person" has been fulfilled; regarding whether or not the defendant has been proven to have committed the crime of corruption as charged against him, it still has to be proven with other elements.

2) Unlawfully

According to the explanation of Article 2 paragraph (1) of the Corruption Law, what is meant

by "unlawfully" includes unlawful acts in the formal sense and in the material sense, where unlawful in the formal sense contains the meaning that an act can only be said to be an unlawful act if it violates or contradicts the applicable laws and regulations, while unlawful in the material sense means that even though the act is not regulated in laws and regulations, if the act is considered reprehensible, because it does not conform to the sense of justice or norms of social life in society, then the act can be punished and declared contrary to the 1945 Constitution and does not have binding legal force. In its development, based on the Constitutional Court Decision No. 003/PUU-IV/2006 dated July 25, 2006, the meaning of material unlawfulness has been declared to have no legal force, so that what is meant by unlawful in Article 2 paragraph (1) of the Corruption Law is only formal unlawful acts. However, the Supreme Court of the Republic of Indonesia after the Constitutional Court Decision No. 003/PUU-IV/2006 in several of its decisions, including Decision No. 996 K/Pid/2006 dated August 26, 2006, Decision No. 1974 K/Pid/2006 dated October 13, 2006, and Decision No. 2068 K/Pid/2006 dated February 21, 2007, apparently still interprets the element of "against the law" in Article 2 paragraph (1) of the Corruption Law both in the formal sense and in the material sense; According to Nur Basuki Minarno, implicitly the abuse of authority in haeren (the same) as against the law, because the abuse of authority is essentially an unlawful act. The element of against the law is the genus while the element of abuse of authority is the species. The Supreme Court of the Republic of Indonesia has compared the Primary Charge and the Subsidiary Charge, namely violating Article 2 Paragraph (1) with Article 3 of the Corruption Law, the essential difference between the two articles lies in the quality of the subject/perpetrator and the way the act is carried out, where the two elements are closely related, because the quality of the subject/perpetrator will determine the way the act is carried out; By looking at the quality of the subject/perpetrator and the way the act is carried out as formulated in Article 2 paragraph (1) of the Corruption Law in the Public Prosecutor's primary charge, according to the Supreme Court, the formulation is very general and broad in scope, so that it will ensnare everyone regardless of their quality, as long as they carry out the act in the manner formulated in the article, namely "unlawfully". On the other hand, what is formulated in Article 3 of the Corruption Law in the Subsidiary Charge is more specific because the subjects/perpetrators who can be ensnared are only people with certain qualities who can carry out the act in a certain manner/circumstances, namely in their "position or status".

Another thing that differentiates the meaning of Article 2 with Article 3 of the Corruption Law is related to the object of the act, namely in Article 2 the object is still outside the power/authority of the perpetrator, while in Article 3 the object is already within the power/authority of the perpetrator. So the Supreme Court is of the opinion that Article 3 is a specialization of Article 2. So in this case the adage "Lex specialis derogate legi generalis" applies. Therefore, the Supreme Court is of the opinion that for people/legal subjects who commit corruption crimes committed in office or position, it is more appropriate to apply/snared Article 3 of the Corruption Law.

In relation to this case, the Panel considers whether the Defendant has committed an unlawful act or not. Therefore, based on the legal facts revealed before the trial, it was found that the Defendant is the Acting Head of Skikilale Village who has enriched himself or another

person or a corporation and has caused a state financial loss of IDR688,797,468.81, - as per the audit report on the calculation of state financial losses for the alleged corruption case in the management of village funds (DD), village fund allocation (ADD), Tax Revenue Sharing (BHP) and Retribution Revenue Sharing (BHR) in Skikilale Village, Waplau District, Buru Regency for the 2019 Budget Year. As the Holder of Village Financial Management Authority who has the authority to organize the entire management of village finances, the Defendant should have established policies that encourage the management of DD and ADD to run in accordance with the Principles of Village Financial Management. Considering what the Defendant did as Acting Village Head in carrying out the mandate to manage Village Funds (DD), Village Fund Allocation (ADD), and Tax Revenue Sharing (BHP) for Skikilale Village for the 2019 budget year as outlined in the trial facts. Therefore, based on the trial facts as mentioned above, the actions carried out by the Defendant as Acting Village Head of Skikilale, who has duties and authorities that have been regulated in statutory regulations and has committed unlawful acts that are closely related to his duties and authorities as Acting Village Head of Skikilale who is an individual appointed to: determine policies regarding the implementation of the Village Budget, determine policies regarding the management of Village assets, carry out actions that result in expenditures at the expense of the Village Budget, determine the PPKD, approve the DPA, DPPA, and DPAL, approve the Village RAK and approve the SPP Considering, that, because the Defendant's actions are closely related to the Defendant's position and authority as Acting Village Head of Skikilale, the Panel of Judges is of the opinion that the second element in the Primary Indictment is not appropriate to be applied to the Defendant, and therefore the Defendant must be declared not legally and convincingly proven guilty of committing a crime as charged in the Primary Indictment. Therefore, based on these considerations, the Panel of Judges is of the opinion that the unlawful element in the act is of a special nature (specialist) due to the opportunity and/or means available to the Defendant as Acting Head of Skikilale Village, Waplau District, Buru Regency, so that the unlawful element in the primary charge in this case is not fulfilled. Because one of the elements in the primary charge, namely the unlawful element as stipulated in Article 2 paragraph (1) of the Corruption Law in the primary charge is not fulfilled, Therefore, the elements of the primary charge do not need to be proven any further and therefore the Defendant must be acquitted of the primary charge.

As in the proof of the element of committing an act of enriching oneself or another person or a corporation, it has been proven as a result of the Defendant's actions as the Acting Head of Skikilale Village. The trial facts from the testimony of witnesses and the Defendant's own statement, that the Defendant's actions as the Acting Head of Skikilale Village, Waplau District, Buru Regency in managing Village Funds (DD), Village Fund Allocation (ADD), Tax Revenue Sharing (BHP) and Retribution Revenue Sharing (BHR) in Skikilale Village, Waplau District, Buru Regency for the 2019 Fiscal Year have caused a budget difference that cannot be accounted for, resulting in a state financial loss of IDR 688,797,468.81,-

Based on evidence number 10 (ten) in the form of cash amounting to IDR 6,500,000, - and evidence number 11 (eleven) in the form of cash amounting to IDR 8,500,000, - which was confiscated from witness Victor Tasidjawa as Secretary of Skikilale Village in 2019, as well as evidence number 62 in the form of cash amounting to IDR 6,500,000 and evidence number

63 in the form of cash amounting to IDR 8,500,000 which was confiscated from witness Anthoni Waemese as Treasurer of Skikilale Village in 2019, then the evidence can be confiscated for the state and calculated as a reduction in state financial losses, so that in relation to the replacement money for state financial losses amounting to IDR 688,797,468.81, - which clearly exists as a result of the Defendant's actions, then the confiscated money amounting to IDR 15,000,000, - from witness Victor Tasidjawa and the money The confiscation of IDR 15,000,000,- from witness Anthoni Waemese is calculated as a return of state financial losses in the form of payment of replacement money, and therefore the Defendant is further burdened with replacement money of IDR 658,797,468.81,- with the provision that if it turns out that the Defendant does not pay the replacement money within a period of 1 (one) month after the Court's decision which has obtained permanent legal force, then his assets can be confiscated by the Prosecutor and auctioned to cover the replacement money, in the event that the convict does not have sufficient assets to pay the replacement money then he will be sentenced to imprisonment.

Based on all the considerations above, all elements in the Public Prosecutor's subsidiary indictment have been proven and fulfilled legally and convincingly according to the law, so that the Defendant must be found guilty of committing the Crime of Corruption, which violates Article 3 Jo. Article 18 of the Corruption Law states that due to the elements charged in the subsidiary indictment, both in the form of actions (*actus reus*) of the Defendant in the implementation of the realization of the Village Fund (DD) budget, Village Fund Allocation (ADD), Tax Revenue Sharing (BHP) and Retribution Revenue Sharing (BHR) in Skikilale Village, Waplau District, Buru Regency for the 2019 Fiscal Year, even though there were activities that were not carried out (*fictitious*), there was excess spending (*Mark Up*), and there was a shortage in the volume of physical work, however, to account for the budget that had been disbursed in stages I and II of the 2019 Fiscal Year, the Defendant attached proof of expenditure in the form of receipts written by witnesses Anthoni Waemese and Witness Victor Tasidjawa in accordance with the number of goods and prices of goods listed in the Skikilale Village RAB for the 2019 Fiscal Year, which previously the Defendant obtained the receipts in an empty state so that they were attached to the Skikilale Village Budget Accountability Report for stages I and II of the Fiscal Year 2019, as if the management of Village finances was in accordance with the 2019 Budget of Skikilale Village. Meanwhile, in the management of Skikilale Village finances stage III which has been disbursed, no accountability has been made, and or the mental attitude (*mens rea*) of the Defendant with the aim of benefiting himself or another person or a corporation, has been legally and convincingly proven according to law, then the Panel of Judges then considers whether for the criminal acts committed by the Defendant there is a justification in the form of coercive power (*over macht*), forced defense (*noodweer*), carrying out statutory orders and carrying out official orders (Article 48, 49 Paragraph (1), Article 50, Article 51 Paragraph (1).

Based on the examination of the trial of this case, the Panel of Judges did not find any justification and/or excuse for the Defendant as referred to in the provisions of statutory regulations (Article 48, 49 Paragraph (1), Article 50, Article 51 Paragraph (1), Article 44 Paragraph (1), Article 49 Paragraph (2), Article 51 Paragraph (2) of the Criminal Code; which can release the Defendant from his criminal responsibility, so that the Defendant must be

responsible for his actions; Considering, that regarding the material of the oral defense from the Defendant's Legal Counsel and the Defendant's personal defense dated February 15, 2023, which in essence asked for a reduced sentence.

Considering, that therefore regarding the Public Prosecutor's criminal demands in his criminal demands to the Defendant for 3 (three) years and 6 (six) months, a fine of IDR75,000,000,- (seventy five million rupiah) with the provision that if the fine is not paid then it is replaced with imprisonment for 5 (five) months, with the order that the Defendant remains in detention, the Panel of Judges considers as follows. In sentencing to determine the severity of the sentence for the crime of corruption Article 2 and Article 3 of the Corruption Law must be considered regarding the category of state or state economic losses, the level of error, impact and benefits, the time span of the sentence, aggravating and mitigating circumstances and the imposition of the sentence itself as well as other provisions related to the imposition of the sentence. Considering, that in terms of state losses and or state economy, as the facts revealed in the trial as legal facts of state losses that occurred and or incurred in this case amounted to IDR688,797,468.81,- In terms of the level of the Defendant's fault revealed in the trial, the Defendant has the most significant role in the occurrence and perfection of the criminal act of corruption, whether carried out alone or together which caused state finances to be harmed. The impact that occurred as a result of the Defendant's criminal acts in the management of village funds (DD), village fund allocation (ADD), Tax Revenue Sharing (BHP) and Retribution Revenue Sharing (BHR) in Skikilale Village, Waplau District, Buru Regency in the 2019 Fiscal Year has resulted in impacts or losses to state/regional finances on the scale of Buru Regency. In terms of the profits, benefits and or advantages obtained by the Defendant from his actions as revealed in the trial, it is included in the medium category, where the value of the assets obtained by the Defendant from the criminal act of corruption is 10% to 50% of the total state financial losses in the a quo case. Therefore, in terms of the time span of the sentence, as stipulated in Article 12 of the Supreme Court Regulation Number 1 of 2020, it is linked to the category of state losses and the level of error, impact and benefits. The category of state losses that occurred as a result of the criminal act committed by the Defendant is in the light category, namely more than IDR 200,000,000 to IDR 1,000,000,000.00, which in the a quo case is IDR 688,797,468.81, - The level of error of the Defendant in committing his criminal act is in the high category where the Defendant has a very significant role in the perfection of the criminal act that occurred.

The impact of the Defendant's actions is included in the low impact category, because the consequences of the criminal acts committed by the Defendant are on a Regency (regional) scale. The profits obtained by the Defendant are included in the moderate category where the Defendant enjoys or obtains profits from State losses amounting to 10% to 50% of the total state financial losses amounting to IDR 688,797,468.81, - and the Defendant has not yet returned the State losses. Therefore, in terms of the time span for imposing a sentence that can be applied to the Defendant by considering the category of light state losses with a high level of error, low impact and moderate profits as per the Sentencing Range Matrix of Supreme Court Regulation Number 1 of 2020, then the time span for sentencing that can be imposed on the Defendant is in the low criminal range, namely between 4 (four) to 6 (six) years with a fine of IDR 200,000,000.00 to IDR 300,000,000.00. However, by paying attention

to the subjective circumstances of the Defendant regarding the Criminal Act that occurred and was revealed in the subsequent trial, the Defendant's cooperative attitude in the trial so as to facilitate the course of the trial and other mitigating circumstances of the Defendant, then in terms of the length of the Criminal Sentence (straaftmaat) imposed on the Defendant, the Panel of Judges will consider and determine in this verdict. Likewise, regarding the Criminal Fine, it is the main Criminal Punishment in the form of an obligation for a person who has been sentenced to a fine by the Judge or Court to pay a certain amount of money because he has committed a Criminal Act (Article 10 of the Criminal Code), then by paying attention to the provisions of the matrix of the time span for imposing Criminal Sentences as per Supreme Court Regulation Number 1 of 2020, the Panel of Judges will consider and determine the amount of the Criminal Fine in the verdict. Regarding the evidence that has been confiscated and submitted by the Public Prosecutor before the trial, the status of the evidence and/or written evidence in accordance with the provisions of Article 46 of Law Number 8 of 1981 concerning the Criminal Procedure Code will be determined and its status determined in the verdict of this case. In the examination of this case, the Defendant has been detained, therefore the sentence imposed on the Defendant must be reduced by the period of detention that he has served (Article 22 paragraph (4) of the Criminal Procedure Code). Considering that because the Defendant has been sentenced, he must also be burdened with paying court costs as referred to in Article 222 (1) of the Criminal Procedure Code, the amount of which will be determined in the following verdict. Before passing a verdict, the Panel will consider the following circumstances:

- a. Aggravating circumstances: The Defendant's actions as a Civil Servant (PNS) do not support the Government's program in eradicating Corruption; The Defendant's actions have caused financial losses to the State or Buru Regency; The Defendant has not yet repaid the State's financial losses.
- b. Mitigating circumstances: The defendant behaved politely during the trial, thus facilitating the smooth running of the trial; The defendant has never been convicted; The defendant regrets and promises not to repeat his actions. Considering Article 3 in conjunction with Article 18 of the Corruption Law, Article 197 of the Criminal Procedure Code and other relevant laws and regulations.

Based on the judge's considerations based on the facts revealed at the trial, the judge gave a verdict stating that the defendant was guilty of committing a crime as stated in the primary indictment and imposed a criminal sanction of imprisonment on the defendant for 4 years and a fine of IDR 200,000,000, - with the provision that if the fine is not paid it will be replaced with imprisonment for 3 (three) months. In addition, the defendant was also sentenced to pay compensation for state financial losses of IDR 658,797,468.81, - (IDR 688,797,468.81, - minus IDR 30,000,000, - which has been confiscated by the Public Prosecutor, with the provision that if the Defendant does not pay the compensation no later than 1 (one) month after the court decision has permanent legal force, then the Defendant's assets can be confiscated by the Prosecutor and auctioned to cover the compensation, in the event that the Defendant does not have sufficient assets to pay the compensation, he will be sentenced to 1 (one) year in prison.

The sanctions imposed on the defendant by the panel of judges were heavier than the demands of the public prosecutor, namely imprisonment for 3 years and 6 months while the judge imposed a criminal sanction of 4 years, the Public Prosecutor demanded a fine of IDR 75,000,000, - subsidiary to 5 months imprisonment while the judge imposed a fine of IDR 200,000,000, - subsidiary to 3 months imprisonment; the Public Prosecutor also demanded an additional penalty to pay compensation of IDR 688,797,468.81, - subsidiary to 2 (two) years imprisonment, while the judge's decision was to pay compensation for state financial losses of IDR 658,797,468.81, - which is a total state loss of IDR 688,797,468.81, - minus IDR 30,000,000,- which is money that has been confiscated by the Public Prosecutor) subsidiary to a prison sentence of 1 year.

4. Conclusion

Law enforcement of corruption crimes at the Buru District Attorney's Office, especially in decision Number 40/Pid.Sus-Tk/2022/PN.Amb, is carried out through investigations, making indictments, prosecuting and implementing criminal decisions. The implementation of investigations and prosecutions is guided by the Corruption Law, the Criminal Procedure Code and the Technical Instructions for the Pattern of Handling Quality Special Criminal Cases Number: B-845/F/Fjp/05/2018. After a judge's decision has permanent legal force, the prosecutor implements the judge's decision by referring to the Criminal Procedure Code and Prosecutor's Regulation Number 19 of 2020 concerning the Settlement of Replacement Money decided by the Court Based on Law Number 3 of 1971 concerning the Eradication of Corruption Crimes. The judge's considerations in decision No. 40/Pid.Sus-Tk/2022/PN.Amb were appropriate, considering the fulfillment of the elements of the indictment. Furthermore, they also considered the defendant's level of culpability, the category of state losses caused by the defendant's actions, the category of the defendant's level of culpability, the impact of the defendant's actions, and the benefits obtained by the defendant. Furthermore, the judge also considered the category of state losses based on the Sentencing Range Matrix of Supreme Court Regulation Number 1 of 2020. Through appropriate considerations, a fair decision was produced.

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