

The Legal Impact of Prejudicial Decisions that State Invalidity of Suspects Determination

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Abstract.

In judicial practice, there have been several pre-trial decisions declaring the stipulation of a suspect invalid. The impression that arises from the suspect is as if the determination of the suspect is declared invalid, then the case is stopped and not continued. Therefore, this study aims to find out the legal impacts of prejudicial decisions which state the invalidity of the determination of suspects in the current and future laws. This study used a normative legal approach by reviewing and researching primary legal materials consisting of the Legislation on the Criminal Procedure Code (KUHAP) and Judge's Decisions. Then proceed with secondary legal materials in the form of books and journal articles related to pre-trial decisions declaring the determination of the suspect invalid. The analytical technique used in this research is a descriptive qualitative method. The results of the research on the legal impacts of the prejudicial decision stating the invalidity of the determination of the suspect, including (1) The investigation can still be continued even though there has been a pre-trial decision stating the stipulation of the suspect is invalid, (2) If before the determination of the suspect is declared invalid by the pre-trial judge, the suspect has an investigation is carried out by the investigator, the Minutes of Examination or "Minutes of Examination" of the suspect becomes invalid, (3) Legal actions based on the results of the suspect's examination are considered invalid, (4) Legal actions that are not based on the results of the suspect's examination are still valid and (5) If the investigation is continued and the investigator is able to find the suspect, the investigator may re-determine the suspect. Then against the determination of the suspect, the suspect can still apply for a pre-trial again, and so on.

Keywords: Decisions; Determination; Impacts; Prejudicial; Suspects.

1. Introduction

Since the establishment of the State of Law of the Republic of Indonesia, the provisions of the Criminal Procedure Code regulated in the HIR have been felt and judged not to be in accordance with the spirit and ideals of the law contained in the Pancasila state basis which is the source of all legal sources where the elaboration has also been stated in the Preamble and Trunk. Body of the 1945 Constitution of the Republic of Indonesia.¹The House of Representatives of the Republic of Indonesia seeks to reform the criminal procedure law by revoking the HIR and replacing it with a new criminal procedure law through the formulation of articles and paragraphs that guarantee the protection of human rights, which since September 23, 1999 has been regulated in Act No. 39 of 1999 concerning Human

¹Moch. Adimas. "Efektivitas Penyidikan Tindak Pidana Dalam Rangka Pencegahan Gugatan Praperadilan Pada Satuan Reserse Kriminal Polrestabes Semarang". *Jurnal Hukum Khaira Ummah* Vol 13, No 1 (2018). p. 143-152, url: <http://jurnal.unissula.ac.id/index.php/jhku/article/view/2592> accessed on January 23, 2022 at 11.45.

Rights. The new law on criminal procedure law, came into force on December 31, 1981 under the name of the Criminal Procedure Code (KUHAP).

In an effort to ensure that the provisions of the Criminal Procedure Code can be implemented as aspired, then the Criminal Procedure Code regulates a new institution with the name pre-trial as a granting of additional authority to the District Court to conduct examinations of cases related to the use of coercive measures (arrests, detention, search, confiscation, etc.) carried out by investigators and public prosecutors.² The existence of pre-trial aims to provide protection for human rights which also functions as a means of horizontal supervision.³ In this case, it is clear that pre-trial serves as a means of horizontal supervision with the aim of providing protection for human rights, especially the rights of suspects and defendants. Pre-trial is also the authority of the district court to examine and decide according to the method regulated by law in Article 1 number 10 of the Criminal Procedure Code (KUHAP).⁴

In terms of pre-trial provisions contained in Act No. 8 of 1981 concerning Criminal Procedure Code or known as the Criminal Procedure Code, Article 77 of the Criminal Procedure Code states that "the district court has the authority to examine and decide in accordance with the provisions stipulated in the law. This law concerns (1) whether or not an arrest, detention, termination of investigation or termination of prosecution is legal, and (2) Compensation and/or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution.⁵

If you look at the contents of the article above, that humans are not perfect creatures without any mistakes, so whoever he is, including law enforcement officers, can be held accountable for his actions, especially regarding the contents of Article 77 above. This has been regulated in the provisions of the law. However, in its development since April 2015 based on the decision of the Constitutional Court Number 21/PUU-XII/2014, the determination of the suspect has become the object of pre-trial.

The purpose of law is justice and benefit simultaneously so that if social life is increasingly complex, the law needs to be scientifically concreted using better and more perfect language.⁶ In other words, the precautionary principle must be adhered to by law enforcers in determining someone to be a suspect.

In the Decision of the Constitutional Court Number 21/PUU-XII/2014 in reviewing Article 77 letter a of the Criminal Procedure Code against the 1945 Constitution of the Republic of Indonesia including (1) Article 77 letter a of Act No.

²Hamza, Andi. (1986). *Bunga Rampai Hukum Pidana dan Acara Pidana*. Jakarta: Ghalia Indonesia. p. 20.

³Kuffal, HMA. (2010). *Penerapan KUHAP dalam Praktik Hukum Edisi Revisi*. Malang: UMM Press. p. 253.

⁴Santoso, M. Jodi. (2008). *Praperadilan Versus Hakim Komisaris*. url: <http://jodisantoso.blogspot.com/2008/02/praperadilan-versus-hakim-komisaris.html?m=1>, accessed on January 4, 2022 at 08.30.

⁵Administrator FH UNRIKA. (2014). *Ketentuan Praperadilan Dalam KUHAP*. url: <https://fh.unrika.ac.id/ketentuan-praperadilan-dalam-kuhap>, accessed on January 7, 2022 at 19:10.

⁶Shidarta, (2013), *Pendekatan Hukum Progresif dalam Mencairkan Produk Legilasi, dalam Konsorsium Hukum Progresif (Dekonstruksi dan Gerakan Pemikiran Hukum Progresif)*, Semarang: Thafa Media. p. 212-214.

8 of 1981 concerning Criminal Procedure Law (Gazette The State of the Republic of Indonesia in 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209) is contrary to the 1945 Constitution of the Republic of Indonesia as long as it is not interpreted including the determination of suspects, searches and confiscations. (2) Article 77 letter a of Act No. 8 of 1981 concerning Criminal Procedure Code (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209) has no binding legal force as long as it is not interpreted including the determination of suspects, searches, and confiscation.

The concept of pre-trial based on Article 77 letter a of the Criminal Procedure Code which is limited to providing an assessment of the legality of arrest, detention, termination of investigation or termination of prosecution, clearly does not fully provide sufficient protection for suspects so as to cause violations of human rights. This is contrary to Article 1 paragraph (3), Article 28D paragraph (1), and Article 28I paragraph (5) of the 1945 Constitution of the Republic of Indonesia.

In judicial practice, there have been several pre-trial decisions declaring the stipulation of a suspect invalid. The impression that arises from the suspect is as if the determination of the suspect is declared invalid, then the case is stopped and not continued. Things like this need to be studied and discussed to find out the legal consequences of pre-trial decisions stating the invalidity of the determination of the suspect, so this study intends to find out what the legal consequences of the pre-trial decision stating the invalidity of the determination of the suspect in the current and future laws are.

2. Research Methods

This study uses a sociological juridical approach and is descriptive-analytical in nature which is carried out with an observational study of the applicable laws and regulations which are linked and analyzed with legal theories regarding the Legal Consequences of Pre-trial Decisions Declaring Invalid Determination of Suspects.⁷ The data were obtained through observations of the case of the Commissioner General of Police Budi Gunawan who was named a suspect in the alleged bribery and gratification case in 2003 to 2006 by the Corruption Eradication Commission (KPK) and interviews conducted at the Tasikmalaya District Attorney's Office against Prosecutor Yosep Rusdiawan, SH and the Prosecutor. Siti Halimatun, SH who handles corruption cases in the Procurement of Furniture, Office Equipment and Equipment at the General Section of the Regional Secretariat of Tasikmalaya Regency. In addition, the author also conducted interviews with the former Head of the Tasikmalaya District Attorney's Office for the 2019-2020 period, Mrs. Sri Tatmala Wahanani, SH and collected data in the form of the Tasikmalaya District Court Pre-trial Decision Number 1/Pid.Prap/2017/PN.TSM.

⁷Irianto, Sulistyowati and Shidarta. (2011). *Metode Penelitian Hukum*. Jakarta: Yayasan Obor. p.105.

3. Results and Discussion

3.1. Legal Consequences of Pre-trial Decisions Declaring the Invalidity of Determination of Suspects in the Current Law Provisions on pre-trial in Indonesia

Pre-trial is a new institution regulated in the Criminal Procedure Code with the aim of protecting the human rights of suspects. The provisions regarding pre-trial in the criminal justice system in Indonesia are regulated in: Act No. 8 of 1981 concerning Criminal Procedure Code (KUHAP).⁸

Provisions regarding pre-trial in the Criminal Procedure Code are regulated in General Provisions Article 1 point 10 of the Criminal Procedure Code which states that (1) whether or not an arrest and/or detention is legal at the request of the suspect or his family or other parties under the authority of the suspect; (2) whether or not the termination of investigation or termination of prosecution is legal at the request of upholding law and justice; and (3) a request for compensation or rehabilitation by the suspect or his family or other parties on their behalf whose cases have not been brought to court.

Pre-trial in the Criminal Procedure Code is also regulated in Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code relating to compensation, rehabilitation and pre-trial on connectivity. Specific regulations regarding compensation are regulated in the provisions of Articles 7 to 11 of Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code.⁹

3.2. Pre-Trial Decision on whether or not the determination of the suspect is valid

On January 12, 2015, Commissioner General of Police Budi Gunawan was named a suspect in the alleged bribery and gratification case from 2003 to 2006 by the Corruption Eradication Commission (KPK). Regarding the determination of the suspect by the Corruption Eradication Commission (KPK), Commissioner General of Police Budi Gunawan filed a pre-trial lawsuit against the determination of the suspect to the South Jakarta District Court on January 26, 2015. South Jakarta District Court Judge Sarpin Rizaldi, SH who tried the pre-trial lawsuit, Commissioner The General of Police, Budi Gunawan, on February 16, 2015 gave a decision to grant the pre-trial lawsuit for the determination of the suspect proposed by the Commissioner General of Police, Budi Gunawan.

⁸Sutikna, (2016). "Implementasi Praperadilan dalam Melindungi Hak-hak Tersangka dan Pihak Ketigadi Pengadilan Negeri Sleman". Thesis. Program Pascasarjana Fakultas Hukum. Yogyakarta: Universitas Islam Indonesia. <https://dspace.uii.ac.id/handle/123456789/8956>. [Accessed February 13, 2022]

⁹Rahmawati, Ismi. "Akibat Hukum Putusan Pra Peradilan Terhadap Penetapan Tersangka Dugaan Melakukan Tindak Pidana Korupsi Di Sekretariat DPRD Tulang Bawang (Studi Putusan Nomor: 6/Pid.Pra/2020/PN.Tjk)". *Jurnal Fundamental* Vol 10, No 1 (2021). p. 1-17, url: <https://ejurnal.stihm-bima.ac.id/index.php/jurnalstih/article/view/33> accessed on January 20, 2022 at 08:53.

With the pre-trial decision that granted the lawsuit regarding the determination of the suspect by judge Sarpin Rizaldi, SH even though it is not regulated in the Criminal Procedure Code (KUHAP), then the decision can be used as a source of law in the form of jurisprudence.

The pre-trial decision by Judge Sarpin Rizaldi against the pre-trial lawsuit filed by the Commissioner General of Police Budi Gunawan for the determination of the suspect by the KPK was contained in the South Jakarta District Court Decision Number: 04/Pid.Prap/2015/PN.Jkt.Sel. February 16, 2015.

The pre-trial decision stating that the suspect's determination of the Commissioner General of Police Budi Gunawan carried out by the KPK was invalid, was bravely pronounced in a trial open to the public at the South Jakarta District Court on Monday, February 16, 2015 with the considerations as stated in the verdict.

3.3. The Constitutional Court's Decision regarding the Determination of the Suspect Entered into the Pre-trial Object

The Constitutional Court of the Republic of Indonesia on April 28, 2015 has amended Article 77 letter a of the Criminal Procedure Code regarding the object of pre-trial by adding the determination of suspects, searches, and confiscation as objects of pre-trial.¹⁰The Constitutional Court changed the direction of reforming the Indonesian Criminal Procedure Code.¹¹His decision regarding the determination of suspects, searches and confiscations which are included in the expansion of pre-trial objects is a milestone that has been able to overcome legal debates so far since judge Sarpin Rizaldi's pre-trial decision.

In the decision to determine the suspect, the Constitutional Court also provides a standard definition of the requirements for sufficient preliminary evidence and sufficient evidence. This has also been regulated in the Criminal Procedure Code. At least two (2) valid pieces of evidence are required plus the examination of potential suspects as the standard definition of the Criminal Procedure Code.¹²The decision of the Constitutional Court which adds to the determination of the suspect as a pre-trial object is contained in the Constitutional Court's decision no. 21/PUU-XII/2014 dated 28 April 2015.

3.4. Legal Consequences of Pre-Trial Decisions Declaring the Invalidity of Determination of Suspects

¹⁰Pangaribuan, Luhut MP. "Ius Constitum vs Ius Constituendum Anotasi Putusan Perkara No. 04/Pid.Prap/2015/PN.Jkt.Sel". *Jurnal Kajian Putusan Pengadilan-DICTUM Edisi 11: Praperadilan* Vol 11, No 1 (2015). p. 4-12, url: <https://leip.or.id/dictum-edisi-11-praperadilan/> accessed on March 2, 2022 at 10.25.

¹¹Shidarta. (2013). *Pendekatan Hukum Progresif dalam Mencairkan Produk Legilasi, dalam Konsorsium Hukum Progresif (Dekonstruksi dan Gerakan Pemikiran Hukum Progresif)*. Semarang: Thafa Media. p.35.

¹²Putusan Mahkamah Konstitusi. (2015). *Penguujian Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. url: <https://www.mkri.id/index.php?page=web.Putusan&id=1&kat=1&cari=21%2FPUU-XII%2F2014> accessed on March 4, 2022.

Against the pre-trial decision stating that the determination of the suspect was invalid, the author conducted research at the Tasikmalaya District Attorney by conducting interviews with Prosecutor Yosep Rusdiawan, SH and Prosecutor Siti Halimatun, SH who handled cases of corruption crimes. General Secretariat of the Tasikmalaya Regency. The investigation carried out by the Investigating Prosecutor at the Tasikmalaya District Attorney's Office has found the suspect, namely Drs. Jamaludin Malik, MM bin KH Ruja'I Dahlan as Head of the General Section at the Regional Secretariat of Tasikmalaya Regency who acts as KPA (Budget User Power) concurrently as PPK (Commitment Making Officer) in the Procurement of Furniture, Equipment and Office Equipment.

Based on the results of the trial, it was found that there were indications of the involvement of Drs. Anwar Sidik Hidayat as PPTK (Technical Implementation Officer) in the Procurement of Furniture, Office Equipment and Equipment in the General Section of the Tasikmalaya Regency Regional Secretariat. Furthermore, based on the Order of the Head of the Tasikmalaya District Prosecutor's Office Number: Print-72/O.:3/Fd.1/02/2017 dated February 3, 2017, the investigating prosecutor at the Tasikmalaya District Attorney's Office determined Drs. Anwar Sidik Hidayat as a suspect.

Anwar Sidik Hidayat, through his attorney, submitted a pre-trial application to the Tasikmalaya District Court because he objected to the process of determining the suspect against him which was carried out by the Tasikmalaya District Attorney. However, the pre-trial decision stating that the determination of the suspect was invalid was not continued according to the former Head of the Tasikmalaya District Attorney's Office, Mrs. Sri Tatmala Wahanani with the following considerations:

- This case is a splitting case from a corruption case on behalf of the defendant Dr. Jamaludin Malik, MM bin KH Ruja'I Dahlan as Commitment Making Officer (PPK) who has been decided by the judge at the Bandung Corruption Court and has obtained permanent legal force (*inkracht*) and his decision has been carried out (executed) by the Public Prosecutor at the Prosecutor's Office State of Tasikmalaya Regency.
- The state losses caused by the acts of corruption have all been returned, so that there are no more state financial losses. This is viewed from the principle of benefit, it will not provide benefits to the state if the investigation is continued, even the state loses because it has to spend a budget for the process of handling the case, including providing food during the detention period until serving the sentence.

The legal consequences of a pre-trial decision declaring the determination of the suspect invalid are as follows:

- The investigation can still be continued even though there has been a pre-trial decision stating that the determination of the suspect is invalid.
- If before the determination of the suspect is declared invalid by the pre-trial judge, the suspect has been examined by the investigator, then the Minutes of Examination of the suspect becomes invalid.
- Legal actions carried out by investigators in the form of confiscation, search, examination of witnesses or other legal actions based on the results of the examination of the suspect, then the legal action becomes invalid.

- As for legal actions in the form of witness examinations, searches, confiscations or other legal actions that are not based on the results of the examination of the suspect, the legal actions are still valid.
- If the investigation is continued and the investigator is able to find the suspect, the investigator can re-establish the suspect. Then against the determination of the suspect, the suspect can still apply for a pre-trial again, and so on.

3. Legal Consequences of Pre-trial Decisions Declaring the Invalidity of Determination of Suspects in Future Law

The government has submitted the Draft Criminal Procedure Code to the DPR of the Republic of Indonesia in mid-March 2013. The Draft Criminal Procedure Code does not stipulate pre-trial as regulated in Article 1 number 10 jo, but Article 77 of Act No. 8 of 1981 on the Criminal Procedure Code or more popularly known as the Criminal Procedure Code. Likewise with the term "stipulation of suspects", this is not regulated in the Draft Criminal Procedure Code.

Chairman of the Drafting Team for the Draft Law on the Criminal Procedure Code, Prof. Dr. Andi Hamzah, SH. MH., conveyed that there is no term for determining someone as a suspect because the determination of a suspect is contrary to the principle of "presumption of innocence" which is also intended as the principle of presumption of innocence.¹³In other countries, there is a prohibition on the determination of a suspect because apart from violating human rights, it will only give that person an opportunity to dispose of or destroy evidence. Prof. Dr. Andi Hamzah, SH. MH. also explained that there were no suspects in the form of determinations or announcements as in practice so far carried out by the KPK, the Police, and the Attorney General's Office.¹⁴Regarding the determination of the suspect, the investigator only suffices to state when someone is about to be questioned, "Today you are being investigated as a suspect, please find a lawyer to accompany you." No letter of determination is allowed because it is the judge who has the right to make the determination. Likewise, the announcement of the determination of the suspect which has been practiced so far should not be carried out because it violates human rights. Therefore, the Draft Criminal Procedure Code stipulates that investigators are prohibited from announcing a person's status as a suspect.

Similar provisions in other countries, the French Criminal Procedure Code, for example, have provisions stating that anyone who conveys the progress of an investigation to the public will be punished. So far, what has happened in Indonesia is on the contrary, investigators open to the public or the public through the mass media regarding the progress of the investigation and soon there will be such and such officials who will become suspects. Therefore, later the attitude of investigators in the Draft Criminal Procedure Code is that they don't need to talk much, but just work. Investigators summon people who are suspected of being guilty and cannot

¹³Oktaviananda, Pramudya A. "Perlindungan Hak Tersangka dalam Perspektif Hukum dan Ekonomi". *Jurnal Peradilan Indonesia* Vol 3, No 1 (2015). p. 65, url: <https://leip.or.id/dictum-edisi-11-praperadilan/> accessed on March 3, 2022 at 10.40.

¹⁴Hamzah, Andi. (2014). *Hubungan Antara Penyidik dan Penuntut Umum dalam RUU KUHP* Vol. 2. Jakarta: Media Hukum dan Keadilan Teropong. p. 93.

announce a person's status as a suspect, let alone make a determination. Thus, it can be concluded that with the provisions in this Draft Criminal Procedure Code,

In the absence of a pre-trial institution whose object has been supplemented by the decision of the Constitutional Court regarding the validity of the determination of a suspect, it can provide more legal protection and human rights for suspects. The Draft Criminal Procedure Code introduces a new institution in the criminal justice system. The institution is named the Preliminary Examining Judge, or also called the Commissioner Judge who is given the authority to assess the course of investigations and prosecutions as well as other powers granted by law (vide Article 1 point 7 of the Draft Criminal Procedure Code).

The existence and role of the Preliminary Examining Judge is contained in a number of articles in the Draft Criminal Procedure Code which has been proposed by President Susilo Bambang Yudhoyono by the Minister of Law and Human Rights Amir Syamsuddin to the DPR of the Republic of Indonesia in mid-March 2013. arrests, detentions, searches, confiscations, and even wiretapping telephone conversations.

In the Draft Criminal Procedure Code proposed by the government to replace Act No. 8 of 1981 concerning the Criminal Procedure Code, the authority to detain a suspect in the context of an investigation is granted for a maximum of 5 (five) days (Article 60 of the Draft Criminal Procedure Code) and can be extended for another 5 (five) days by the Public Prosecutor. If the detention period expires, the investigator submits a written application to the preliminary examination judge with a copy to the public prosecutor.

After receiving a letter from the investigator regarding the request for an extension of detention, the preliminary examination judge is obliged to notify and explain to the suspect. The notification to the suspect can be delivered by letter or by going directly to the suspect by explaining the alleged criminal act, the suspect's rights, and the extension of the detention.

The preliminary examining judge may extend the detention period for 20 (twenty) days and the extension is submitted to the suspect. As for the prosecution process, the judge is authorized to hold detention for 30 (thirty) days and it can still be extended for another 30 (thirty) days. If the extended period of detention is exceeded, investigators and/or public prosecutors must release the suspect from detention for the sake of law (see Article 60 of the Draft Criminal Procedure Code).¹⁵

The preliminary examining judge is also given the authority to determine whether or not the detention is legal. If the detention is deemed illegal, the preliminary examining judge may determine that the suspect is entitled to compensation (see Article 111 of the Draft Criminal Procedure Code). The search for houses, closed buildings and ships must obtain permission from the preliminary examining judge proposed by the public prosecutor. Not only searches and confiscations, even wiretapping must first obtain permission from the preliminary examining judge.

¹⁵Simarmata, Berlian. "Menanti Pelaksanaan Penahanan dan Pidana Penjara Yang Lebih Humanis di Indonesia". *Jurnal Peradilan Indonesia* Vol 7, No 3 (2010). p. 87, url: <https://jurnalkonstitusi.mkri.id/index.php/jk/article/download/229/225> accessed on March 5, 2022 at 11.23.

The preliminary examining judge has great authority in the criminal justice process. It is regulated in the Draft Criminal Procedure Code that preliminary examining judges are appointed and dismissed by the president at the suggestion of the Head of the High Court. The term of office of the preliminary examining judge is 2 (two) years and can be extended for 1 (one) term of office (vide Article 116 of the Draft Criminal Procedure Code).

It is different from pre-trial judges who are already known in Act No. 8 of 1981 concerning Criminal Procedure Code. Preliminary examining judges are freed from the task of adjudicating all types of cases and other duties related to the duties of the district court. After completing their duties, the preliminary examining judge will return as an ordinary judge as long as he has not reached retirement age (see Article 199 of the Draft Criminal Procedure Code). The preliminary examining judge does not have an office at the Court, but is based near the State Detention Center (vide Article 121 of the Draft Criminal Procedure Code). He carries out his duties because of his position alone and based on the determination or decision of the preliminary examining judge, no appeal or cassation can be submitted (vide Article 122 of the Draft Criminal Procedure Code).

In the academic text attached to the Draft Criminal Procedure Code, the preliminary examining judge is referred to as the commissioner judge, which reads:

"The contents are not new, but rather a revitalization of pre-trial institutions that already exist in the Criminal Procedure Code".¹⁶

The decision of the Constitutional Court which adds the phrase "legitimate or invalid determination of a suspect into the object of pre-trial" will no longer be needed. In the absence of a pre-trial institution whose object has been supplemented by the decision of the Constitutional Court regarding the validity of the determination of a suspect, it can provide more legal protection and human rights for suspects. The Draft Criminal Procedure Code introduces a new institution in the criminal justice system. The institution is named the Preliminary Examining Judge, or also called the Commissioner Judge who is given the authority to assess the course of investigations and prosecutions as well as other powers granted by law (Article 1 point 7 of the Draft Criminal Procedure Code).¹⁷

4. Conclusion

Along with the development of the era of pre-trial objects which were originally regulated in Act No. 8 of 1981 concerning the Criminal Procedure Code (KUHAP) covering (1) whether or not an arrest or detention is legal; (2) whether or not the termination of an investigation or prosecution is legal; and (3) request for compensation. For the sake of legal certainty and to prevent differences in perception or misunderstanding between law enforcement officers, it is necessary to make changes or revisions to Act No. 8 of 1981 concerning the Criminal Procedure Code (KUHAP) to add matters that have not been regulated in the Criminal

¹⁶Tanuredjo, Budiman. (2013). *RUU KUHAP Perkenalkan Hakim Pemeriksa Pendahuluan*. Harian Kompas Edisi 19 Maret, url: <https://nasional.kompas.com/read/2013/03/19/11390375/~Nasional> accessed on March 10, 2022 at 11.20.

¹⁷Hiariej, Eddy O.S. (2012). *Teori & Hukum Pembuktian*. Jakarta: Erlangga. p. 30-31.

Procedure Code. The Draft Criminal Procedure Code does not stipulate pre-trial, nor does the term "stipulation of a suspect" stipulate. It is meant provide a sense of justice and legal protection for suspects and fulfill the rights of suspects in the future. Prior to the promulgation of the new KUHP draft, it would be nice to amend Act No. 8 of 1981 concerning the Criminal Procedure Code (KUHP) so that in the criminal proceedings, law enforcers have a strong legal basis or foundation and for the realization of legal certainty.

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- [3] Act No. 15 of 2006 concerning the Financial Audit Board.
- [4] Act No. 8 of 1981 concerning Criminal Procedure Code (KUHAP).
- [5] Tasikmalaya District Court Decision Number 1/Pid.Prap/2017/PN.TSM dated 31 May 2017

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- [1] Administrator FH UNRIKA. (2014). *Ketentuan Praperadilan Dalam KUHAP*. <https://fh.unrika.ac.id/ketentuan-praperadilan-dalam-kuhap>, accessed on January 7, 2021 at 19.10.
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Interview:

- [1] Mrs. Sri Tatmala Wahanani, S.H. as the former Head of the Tasikmalaya District Attorney's Office for the 2019-2020 period.
- [2] Prosecutor Yosep Rusdiawan, S.H. and Attorney Siti Halimatun, S.H. as the Prosecutor who handles cases of corruption in the Furniture Procurement Activities.