

## Legal Analysis of the Role of the Prosecutor in Efforts to Enforce the Law on the Return of State Finances from Criminal Acts of Corruption Committed by the Defendant

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**Abstract.** *In the process of returning state funds from the proceeds of corruption, the Prosecutor's Office has an obligation to return the state's financial losses through replacement money as regulated in Article 18 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The approach method used is normative juridical, which is a method in normative legal research using primary sources of secondary data or library materials. Secondary data in legal research is data obtained from the results of literature reviews or reviews of various literature or library materials related to the problem or research material which is often called legal materials. Data collection methods are through library research, document studies, and using descriptive data analysis methods. Problems are analyzed using the theory of Law Enforcement and the theory of Legal Certainty. The results of the study show that the role of the prosecutor's office in law enforcement efforts to return state finances from criminal acts of corruption committed by defendants can be implemented in two ways, namely by returning state finances through criminal channels, including: Tracing assets / wealth, Freezing assets, confiscation, Execution in order to return state financial losses, Confiscation of assets belonging to the defendant and Returning state financial losses due to criminal acts of corruption through civil channels are contained in the provisions of Article 32 paragraph (1), (2), Article 33 and Article 34 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption and the implementation of returning state financial losses from criminal acts of corruption through an asset recovery agency provides a greater chance of success in its success because the internal regulations of the prosecutor's office and presidential regulations provide the authority to trace, confiscate and return assets obtained from criminal acts and other assets to the state, victims or those entitled.*

**Keywords:** *Corruption; Implemented; Prosecutor's; Regulations.*

## **1. Introduction**

The 1945 Constitution of the Republic of Indonesia in the fourth paragraph states that the goals of the Indonesian state include protecting the Indonesian nation and all its citizens. The meaning of this goal is as comprehensive protection for citizens, then in the body of the 1945 Constitution, in Article 28D paragraph (1) of the 1945 Constitution, it states: "Everyone has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law.". Legal certainty greatly influences the benefits in law enforcement, one of which is in the context of returning state finances from criminal acts of corruption because the process involves the state and other parties who have an interest in realizing effective and efficient law enforcement in order to achieve benefits.<sup>1</sup>

Corruption is an act carried out by any person who unlawfully enriches himself or another person or a corporation which can harm the state or the state economy.<sup>2</sup>Corruption in Indonesia has become widespread in society. Therefore, corruption is considered a serious crime, and its handling must be carried out with extraordinary treatment, and its proof requires serious, professional, and independent steps. Corruption means the state suffers losses in the form of money and assets that should belong to the state. According to Article 1 number 15 of Law Number 15 of 2006 concerning the Financial Audit Agency of the Republic of Indonesia, state or regional losses are defined as a shortage of money, securities, and goods of a certain amount resulting from unlawful acts, whether intentional or negligent.

The rights of law enforcement officials in handling corruption cases are not limited to breaching banking secrets, but are also given the right to open, examine and confiscate letters and shipments via post, telecommunications, or other means suspected of having a connection with the corruption case being investigated in accordance with Article 30 of Law Number 31 of 1999 concerning the eradication of corruption. Talking about state losses arising from corruption, there are also efforts that can be made to restore state financial losses. In order for the state not to suffer losses, the state must take back the money taken by corruptors to the state treasury. In carrying out the recovery of lost state losses, the state already has an agency tasked with doing this, namely the Prosecutor's Office.

The Prosecutor's Office is a law enforcement agency, regulated by Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004, State Institutions of the Republic of Indonesia Year 2004 Number 67 concerning the Prosecutor's Office

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<sup>1</sup>Jimly Asshiddiqie, "The Idea of the Indonesian Legal State," Paper Presented at the National Legal Development Planning Dialogue Forum Organized by the National Legal Development Agency of the Ministry of Law and Human Rights, November 2011, p. 1.

<sup>2</sup>EF Saputra & H. Firmansyah, "Legal Politics in Efforts to Eradicate Criminal Acts of Corruption through Renewal of the Regulation of Criminal Acts of Corruption as an Extraordinary Crime in the National Criminal Code," *UNES Law Review*, Vol. 6, No. 2, 2023, p. 4493.

of the Republic of Indonesia. The Prosecutor's Office of the Republic of Indonesia is a State Institution authorized by the state in the field of implementing court decisions that have obtained permanent legal force. In Article 6 paragraph 1 point b of Law Number 8 of 1981 concerning the Criminal Procedure Code it is also stated that prosecutors are also authorized to implement judges' decisions.<sup>3</sup>

In the process of returning state money from the proceeds of corruption, the Prosecutor's Office has an obligation to return state financial losses through replacement money as regulated in Article 18 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, so that on these grounds the Prosecutor's Office has the authority to return state losses from criminal acts of corruption, so that on these grounds the Prosecutor's Office has the authority to return state losses from criminal acts of corruption.

The role of the prosecutor's office is very important in efforts to save the state's finances because the prosecutor as a representative of the state has the right to file a civil lawsuit against the defendant or his heirs against the assets obtained by the defendant. Through the Public Prosecutor as the State Attorney must prove clearly that there has been a state loss incurred. So that the prosecutor is required to carry out his duties and authorities in accordance with the law, the Attorney General's Office has maximized these duties and authorities in various corruption cases in Indonesia both in cases with small to large scale losses, one example of a case is in the case of corruption in the export approval of Crude Palm Oil (CPO) palm oil for the period 2021-2022, where the Attorney General's Office confiscated Rp11.8 trillion from several companies, namely PT Multimas Nabati Asahan, PT Multi Nabati Sulawesi, PT Sinar Alam Permai, PT Wilmar Bioenergi Indonesia, PT Wilmar Nabati Indonesia.<sup>4</sup>

However, it is not that easy for public prosecutors to carry out their duties and obligations as stipulated in Law Number 16 of 2004 concerning the Prosecutor's Office in returning state losses resulting from criminal acts of corruption. The decline in the number of state losses resulting from criminal acts of corruption that are successfully returned to the state by public prosecutors is also due to the process of returning these assets requiring long mechanisms and procedures, large costs and relatively unlimited human resources, sometimes the results are not balanced between the costs incurred by the State and the results of the return of assets that are successfully withdrawn, which always remains significantly unclear.

The current condition in practice has not optimized the performance of the prosecutor's office and the court in returning state financial losses where the role

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<sup>3</sup>J. Kristianto and MM MM, *Understanding Corruption, Basic Knowledge of Anti-Corruption and Integrity*, Sinar Grafika: Jakarta, 2022, p. 161.

<sup>4</sup><https://wantimpres.go.id/id/newsflows/kejaugung-sita-total-rp118-triliun-di-kasus-korupsi-cpo/> accessed on November 23, 2025.

of the prosecutor's office is only sufficient to carry out its prosecutorial authority until the issuance of a court decision without looking at the next process including regarding fines or replacement money as well as goods or objects confiscated from the convict which should be auctioned to return state financial losses or the prosecutor's office can use the State Attorney to file a civil lawsuit to search for and find assets owned by the convict.<sup>5</sup>

Whether it is compensation that can be directed to the heirs of the convict, civil lawsuits in general cannot accelerate the return of state finances because the trial process of civil cases takes quite a long time but specifically can be used as a way to return state finances and also in these cases the convict prefers substitute punishment so that the demand to return the proceeds of corruption is replaced with corporal punishment or imprisonment, as well as the lack of supervision from the court, namely the supervising judge who is given authority in accordance with the Criminal Procedure Code in Articles 277 to 283 so that without supervision on every decision that has permanent legal force, the prosecutor's performance in returning state financial losses cannot run optimally.<sup>6</sup>

The aim of this research is to determine and analyze the role of the prosecutor's office in law enforcement efforts to return state finances from corruption crimes committed by defendants.

## **2. Research Methods**

This research the approach method used in this thesis research is normative juridical, namely a method in normative legal research using the main source of secondary data or library materials.<sup>7</sup>

## **3. Results and Discussion**

### **3.1. The Role of the Prosecutor's Office in Law Enforcement Efforts to Recover State Finances from Corruption Crimes Committed by Defendants.**

The implementation of the return of state finances from the proceeds of criminal acts of corruption committed both individually and in groups is one of the duties of the Prosecutor's Office, because the Prosecutor's Office is authorized by law to optimize the role of the Prosecutor as a State Attorney in the return of state financial losses or state assets through replacement money from the proceeds of criminal acts of corruption as regulated in Article 18 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, so that with these grounds the Prosecutor's Office is authorized to return state losses from criminal

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<sup>5</sup>B. Waluyo, *Eradication of Criminal Acts of Corruption: Strategy and Optimization*, Sinar Grafika: Jakarta, 2022, p. 3.

<sup>6</sup>A. Djoko Sumaryanto, *Legal Perspective on Restitution of State Financial Losses in Corruption Crimes*, Prestasi Pustaka Publisher: Surabaya, 2010, p. 6

<sup>7</sup>Abdulkadir Muhammad, *Law and Legal Research*, PT Citra Aditya Bakti, Bandung, 2004, p. 49

acts of corruption. The Prosecutor's Office is one of the law enforcement officers in Indonesia whose existence is regulated by Law of the Republic of Indonesia Number 11 of 2021 amending Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The role of the Prosecutor's Office according to this Law is to implement court decisions that have obtained permanent legal force. Thus, it can be said that the Prosecutor's Office is a law enforcement officer who is authorized by law to carry out the execution of a judge's decision that has obtained permanent legal force (*inkracht van gewijsde*).<sup>8</sup>In this regard, the statutory regulations in enforcing the payment of compensation in corruption cases are Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

The confiscation of corrupt assets for the State arises from a Judge's decision, and its implementation is the authority of the Public Prosecutor who carries out the decision that has permanent legal force. The main function of the Prosecutor's Office in criminal justice is as the Public Prosecutor and Executor of Court Decisions that have permanent legal force. According to the provisions of Article 270 of the Criminal Procedure Code, "The implementation of a Court decision that has permanent legal force is carried out by the Prosecutor, for which the Clerk of the Court sends a copy of the decision letter to him."<sup>9</sup>The Prosecutor may only execute a court decision after receiving a copy of the decision from the Court Clerk. The Prosecutor, as the executor of the Judge's decision, as stipulated in Article 1, number 6, letters a and b of the Criminal Procedure Code, states that the Prosecutor shall implement the decision that has obtained permanent legal force and shall implement the Judge's determination.<sup>10</sup>The confiscation of assets from a convict's corruption proceeds is carried out by the Public Prosecutor or State Attorney as part of the implementation of a court ruling that has sentenced the convict to reimburse the state for losses, known as the obligation to pay restitution. If the convict does not have sufficient assets, the convict's assets can be confiscated by the Prosecutor as executor.<sup>11</sup>Confiscation of assets resulting from corruption is in accordance with the law because the act of corruption causes losses to state finances and regional finances, also including the finances of other

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<sup>8</sup>Sinaga, MR, 2021, The Concept of Deferred Prosecution Agreement (DPA) in Efforts to Eradicate Corruption by Corporations in Indonesia, *De Lega Lata: Journal of Legal Studies*, Vol. 6, No. 1, pp. 80-97

<sup>9</sup>Sosiawan, UM, 2020, Handling the Return of State Assets Proceedings of Corruption and the Implementation of the UN Anti-Corruption Convention in Indonesia, *De Jure Legal Research Journal*, Vol. 20, No. 4, p. 587.

<sup>10</sup> Saputro, HJ, & Chandra, TY, 2021, The Urgency of Recovering State Financial Losses Through Asset Blocking and Confiscation as a Strategy for Enforcing Corruption Law, *Mizan: Journal of Islamic Law*, Vol. 5, No. 2, pp. 273-290.

<sup>11</sup> Rambey, G., 2016, Restitution of State Losses in Corruption Crimes Through Payment of Compensation and Fines, *De Lega Lata: Journal of Legal Studies*, Vol. 1, No. 1, pp. 137-161.

legal entities whose capital/wealth originates from separated state/regional assets.

Thomas Aquinas's view can also justify state action in regulating the return of state assets. His rationale is related to what Aquinas defined as general justice (*justitia generalis*). General justice is justice according to the law, which must be carried out in the public interest.<sup>12</sup>In line with this, in an effort to maximize the recovery of state financial losses due to criminal acts of corruption, the Prosecutor's Office can legally take several steps, including:

1. Return of state finances through criminal channels.

Through criminal proceedings, the Attorney General's Office can attempt to recover state financial losses resulting from corruption committed by corruptors. These actions can range from the investigation stage to the execution of corruption cases that have permanent legal force. The actions of the Attorney General's Office of the Republic of Indonesia in recovering state financial losses through criminal proceedings include:

- a. Asset/wealth tracing.

The definition of asset tracing (asset tracing) of a suspect/defendant in a corruption case is not recognized in civil law or the Criminal Procedure Code (KUHP). Within the framework of criminal procedure law, tracing activities are closely related to investigative and inquiry actions, although not mentioned. As stated in Article 1 point 2 of the Criminal Procedure Code, which defines Investigation. Asset tracing is intended to bring investigators, investigators, and prosecutors to information regarding the assets/wealth of the suspect/defendant from the proceeds of corruption that are stored or hidden. The activity of tracing and confiscating assets belonging to a suspect/defendant as an effort to recover state financial losses is not an easy thing and during the examination of the suspect during the investigation stage, investigators will indeed ask about the assets/wealth owned by the suspect, but the answers from the suspect are truly subjective, namely only based on confessions, so the suspect may say only a few assets he owns when in fact many may be hidden.<sup>13</sup>To trace the assets of a suspect/defendant, the Prosecutor's Office may issue a warrant to trace the assets of the suspect/defendant. This tracing activity continues through the trial process and leading up to execution, but the limited availability of facilities and infrastructure often presents a problem, preventing the Prosecutor's Office from maximizing the assets that can be traced. Assets of suspects/defendants hidden in Indonesia will still require further legal processes such as proving ownership rights to the assets or related assets. However, if the assets are located outside of

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<sup>12</sup>Muhammad Erwin and Amrullah Arpan, *Philosophy of Law*, (UNSRI, Palembang, 2007, p. 42

<sup>13</sup>Igm Nurdjana, *The Criminal Law System and the Latent Danger of Corruption: The Perspective of Upholding Justice Against the Legal Mafia*, Yogyakarta: Pustaka Pelajar, 2010, p. 163

Indonesia, this will create more complex problems. It is further emphasized that the purpose of tracing the assets of suspects/defendants is solely to identify the assets, the place or location of the assets, evidence related to asset ownership, and their relationship to the crime committed. This stage can also include the collection of evidence. To facilitate the implementation of this stage, cooperation is essential with institutions, agencies, commissions, or other parties who are aware of the whereabouts of the assets of the suspect/defendant obtained from the proceeds of corruption.

b. Asset freezing.

Following up on the suspect/defendant's asset tracing activities, after information has been gathered and all of it relates to assets resulting from corruption, the next step is to freeze the assets. The definition of asset freezing in criminal procedure law is not specified. In terms of its purpose, freezing is more or less the same as confiscation, both of which aim to secure assets so that they can be returned to the rightful owner in due course. The Black Law Dictionary defines freezing as follows: "temporarily prohibiting the transfer, conversion, disposition, or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority."<sup>14</sup>

Freezing is defined as a temporary prohibition on the transfer, conversion, disposition, or placement or transfer of assets or a prohibition on temporarily placing assets in custody or supervision based on a court decision or order of a certain authority. In practice, the term freezing assets by the Prosecutor's Office is closer to the term blocking. Blocking carried out by the Prosecutor's Office who is handling a corruption case in order to recover state financial losses can be done on the suspect's account, certificates, vehicle documents and other movable property. Blocking activities carried out by the Prosecutor's Office not only originate from tracing the assets/assets belonging to the suspect but can be carried out directly by investigators during the investigation stage when the examination finds items that are assets/assets of the suspect, then they can be immediately blocked. Blocking activities cannot be carried out alone by the Prosecutor's Office but request the parties who control the suspect's belongings to then block them. This is done to prevent the transfer or diversion of the defendant's assets. The blocking of the defendant's assets/wealth is carried out not only for assets originating from criminal acts of corruption but also includes assets owned by the defendant that do not originate from criminal acts of corruption.<sup>15</sup>

c. Foreclosure.

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<sup>14</sup>Lilik Mulyadi, Op.Cit, p. 41

<sup>15</sup>Attorney General's Letter Number: B-116/A/JA/07/2015 Dated July 31, 2015 regarding the Rescue of State Financial Losses in the Handling and Settlement of Corruption Crime Cases



The Prosecutor's Office carries out coercive measures such as confiscating items related to the case being handled. Specifically in efforts to recover state financial losses due to corruption, investigators confiscate assets owned by the suspect. Confiscation of assets belonging to the suspect can be carried out on assets originating from the corruption crime committed and assets belonging to the suspect that do not originate from the corruption crime committed. This is done in order to cover the replacement money equivalent to the amount of state financial losses that must be paid by the defendant. If in the form of money, the confiscation carried out will be more effective because it can be directly used to pay the replacement money, but if in the form of goods that have value, it must go through an auction process so that the proceeds can then be used to pay the replacement money that is the defendant's obligation.

In relation to efforts to recover state financial losses due to corruption, the Deputy Attorney General for Special Crimes has provided instructions that in order to optimize the recovery of state financial losses, this should be done by confiscating the assets of the suspect and his family, both movable and immovable, which were used or obtained from the corruption and coordinating with the Intelligence Division to trace the assets. The confiscated assets should be accompanied by valid original documents and stored in a safe place, including a treasurer's safe or a Government Bank safety box, by making a warrant and a deposit report and coordinating with the relevant parties. In addition, in the event that one of the elements of the corruption crime does not have sufficient evidence while there has clearly been a state financial loss, the investigation file along with the calculation of the state financial loss should be immediately submitted to the State Attorney General for collection or lawsuit against the suspect or his heirs.<sup>16</sup> Demanding payment of replacement money is a step by the Attorney General of the Republic of Indonesia in recovering state financial losses through criminal channels which can be done by demanding additional punishment in the form of payment of replacement money equal to the amount of state financial losses. In practice, to be able to demand additional punishment in the form of payment of replacement money, the Public Prosecutor must place Article 18 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes into the article charged to the defendant. If the Public Prosecutor's demand is granted by the Corruption Crime Court Judge as stated in the verdict and the verdict has permanent legal force (*incraht*), then the execution will be carried out.

In relation to the circumstances of the defendant dying before the judge's verdict is issued, Article 38 paragraph (5) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 stipulates that "In the event that the defendant dies before the verdict is issued and there is sufficient evidence that

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<sup>16</sup>Jeremy Pope, *Strategy to Eradicate Corruption: Elements of the National Integrity System*, Jakarta, Yayasan Obor Indonesia, 2007, p. 127



the person concerned has committed a criminal act of corruption, then the judge at the request of the public prosecutor determines the confiscation of the goods that have been confiscated ". The provisions of this article emphasize more on efforts to save State assets by confiscating the defendant's property in order to cover the State's financial losses as a result of the criminal act of corruption that he committed. If the confiscated goods are in the form of money in a certain amount, the public prosecutor will not experience difficulties, but if the goods are not in the form of money, there will be obstacles regarding the value of the confiscated goods in relation to returning the State's financial losses so that it still requires a calculation of the value of the confiscated goods.

d. Execution in order to recover state financial losses.

Once the verdict has permanent legal force, the Prosecutor's Office issues an order to enforce the court's decision. In addition to carrying out the orders as stated in the verdict regarding imprisonment, fines, evidence, and court costs, the Prosecutor's Office also carries out the verdict that stipulates additional penalties of paying compensation. This is particularly true for the penalty of paying compensation. Because the prison sentence for failure to pay compensation is not particularly high, averaging 1 (one) year to 2 (two) years, defendants usually prefer to serve their prison sentences.<sup>17</sup> Even if the defendant prefers to serve a prison sentence in lieu of a substitute payment, this does not mean that the Prosecutor's Office carrying out the execution will immediately make a report on the implementation of the additional sentence of payment of a substitute payment in lieu of a prison sentence.

According to Article 18 paragraph (2) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 which states that "If the convict does not pay the replacement money as referred to in paragraph (1) letter b within a maximum of 1 (one) month after the court decision has obtained permanent legal force, his assets can be confiscated by the prosecutor and auctioned to cover the replacement money." The prosecutor will confiscate the convict's assets as an implementation of the judge's decision which stipulates that if within a period of one month the defendant does not pay the replacement money, his assets will be confiscated and auctioned by the prosecutor.

The confiscation of the defendant's assets as an execution for the additional penalty of unpaid replacement money is carried out in collaboration with the Intelligence Division which has previously conducted a search of the defendant's assets. The results of the search for assets are then used as a basis for confiscation, which then the defendant's assets that have been successfully confiscated will be auctioned and the proceeds of the auction will be used to cover the replacement

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<sup>17</sup> Prayitno Iman Santosa, *Accountability for Criminal Acts of Corruption*, Alumni, Bandung, 2015, p. 138

payment that is the defendant's obligation. If the proceeds from the auction are not enough to cover the replacement payment that is the defendant's obligation, the amount of state financial loss that is still borne by the defendant will be calculated and how long the defendant will likely have to serve in prison as a substitute for the obligation to pay the replacement money will be calculated. However, this is not an easy thing, usually in the activity of tracing the defendant's assets, the Prosecutor's Office often experiences difficulties because the defendant has previously hidden his assets. As a result of the search for assets that does not find results, the Prosecutor's Office is unable to confiscate the defendant's assets so that efforts to recover state financial losses through confiscation of the defendant's assets cannot be carried out until the defendant finally serves a prison sentence as a substitute for the additional penalty of paying replacement money.

e. Confiscation of the defendant's assets.

The terminology of confiscation in the Criminal Procedure Code is known as the word "seizure" which is regulated in Article 194 paragraph (1) of the Criminal Procedure Code that in the case of a criminal decision or acquittal or release from all legal charges, the court determines that the confiscated evidence is handed over to the party most entitled to receive it back whose name is listed in the decision unless according to the provisions of the law the evidence is confiscated for the benefit of the state or destroyed or damaged so that it can no longer be used. Thus, confiscation of assets or asset seizure is a court action through its decision to legally take over ownership or control from one party to be handed over to another party.

The role of the Prosecutor's Office in recovering state losses through criminal channels continues to be carried out, one of which is to confiscate the defendant's assets through demands for confiscation of objects and assets that were successfully confiscated during the investigation stage. Objects related to the case in question and the defendant's assets, of course those that have economic value that can possibly be used to recover state financial losses during the investigation stage are confiscated and used as evidence. Then during the prosecution, the evidence in the criminal charge is confiscated for the state until the judge's ruling also determines that the evidence is confiscated for the state. In the implementation of the execution of evidence confiscated for the state, if the evidence is in the form of money, the execution can be carried out immediately by making a report to be deposited to the state, while if the evidence is in the form of goods with economic value, an auction is held and the proceeds are deposited to the state.<sup>18</sup> Furthermore, in the instructions, if the return of state financial losses is carried out by the defendant after the case examination in court is declared

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<sup>18</sup>Elwi Danil, *Corruption: The Concept of Criminal Acts and Their Eradication*, PT Raja Grafindo Persada, Jakarta, 2011, p. 37

complete by the judge, then the Public Prosecutor asks the judge to reopen the trial on the grounds that he will submit a request for a determination as evidence for the return of the money. However, if the judge is unwilling to issue a confiscation order for the handover of the money on the grounds that the confiscation is an act of the investigator or for other reasons, then the Public Prosecutor in prosecuting the defendant.

## 2. Return of state finances through civil channels.

The restitution of state financial losses resulting from criminal acts of corruption through civil channels is contained in the provisions of Article 32 paragraph (1), (2), Article 33 and Article 34 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. In the provisions of Article 32 paragraph (1) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, it is stated that:<sup>19</sup>"In the event that the investigator finds and is of the opinion that one or more elements of the crime of corruption do not have sufficient evidence, while there has clearly been a state financial loss, the investigator will immediately submit the case file resulting from the investigation to the State Attorney for a civil lawsuit or will be submitted to the injured agency to file a lawsuit" and in its implementation, the Prosecutor's Office faces various difficulties because it is very unlikely that there will be a state financial loss but no one can be held responsible or there is no unlawful act.

### **3.2. Implementation of Restitution of State Financial Losses from Criminal Acts of Corruption Through the Asset Recovery Agency.**

That there are many obstacles related to the implementation of substitute money punishment for perpetrators of corruption crimes because the crime is a crime that involves many parties, of course, most of which are carried out by people or groups of communities who have adequate levels of education, therefore in 2010 an Ad Hoc Asset Recovery Agency was formed which has the task of settling confiscated goods and substitute money from corruption crimes, then in 2014 the Attorney General's Office made regulations for the asset recovery agency through the Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/3/2014 Concerning Amendments to the Regulation of the Attorney General of the Republic of Indonesia Number PER-009/A/JA/01/2011 Concerning the Organization and Work Procedures of the Attorney General of the Republic of Indonesia, which in essence includes several Articles that regulate the asset recovery agency, namely in Article 461 which broadly states "The Asset Recovery Center is positioned as a supporting element for the duties and functions of the Attorney General of the Republic of Indonesia because the nature and scope of its

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<sup>19</sup>Article 32 paragraph (1) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption

duties are not covered by other organizational units of the Attorney General's Office which include among others across work units and across countries, technically directly responsible to the Attorney General of the Republic of Indonesia and administratively to the Deputy Attorney General for Development.

That then according to Article 461 letter C of the Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/3/2014 Concerning Amendments to the Regulation of the Attorney General of the Republic of Indonesia Number PER-009/A/JA/01/2011 Concerning the Organization and Work Procedures of the Attorney General of the Republic of Indonesia, the asset recovery agency has a function which in essence is to prepare technical policies, program plans and strategies in the field of asset recovery in accordance with statutory regulations and assistance in the management of confiscated goods, in accordance with statutory regulations, after that in 2024 the Attorney General's Office through the Regulation of the Attorney General of the Republic of Indonesia Number 3 of 2024 Concerning the Fourth Amendment to the Regulation of the Attorney General Number PER-006/A/JA/07/2017 Concerning the Organization and Work Procedures of the Attorney General of the Republic of Indonesia inserted 37 Articles relating to the function and position of the asset recovery agency in order to clarify the position of the asset recovery agency in efforts to recover state financial losses, where in Article 691 A paragraph (1) states "The Asset Recovery Agency is an element supporting the duties and authority of the Prosecutor's Office in the field of asset recovery which is under and responsible to the Attorney General. This means that in this Article the asset recovery agency is indeed a single entity and will become an extension of the state in recovering assets taken by perpetrators of criminal acts that are detrimental to the state, especially in corruption crimes, the thing that most guarantees the implementation of asset recovery efforts is in Article 691 C letter (d) which states: "implementation of working relationships with agencies/institutions both domestically and abroad in the field of tracing, confiscation, and return of assets obtained from criminal acts and other assets to the state, victims, or those entitled;" with the creation of this legal umbrella, the Attorney General's Office through the asset recovery agency has more freedom to synchronize with other institutions both at home and abroad because in criminal acts of corruption, the perpetrator or defendant often places, changes, or eliminates the proceeds of the criminal act of corruption itself, so that cooperation with parties outside the Attorney General's Office is needed to conduct tracing so that efforts to return state losses can be maximized, as stated in Article 691 C letter (b) which states "implementation of tracing, confiscation, and return of assets obtained from criminal acts and other assets to the state, victims, or those entitled to it".

In this case, the state strongly supports efforts to recover state financial losses, in a higher legal hierarchy than the Attorney General's regulations, President Joko Widodo on February 12, 2024 signed Presidential Regulation Number: 15 of 2024

concerning the Third Amendment to Presidential Regulation Number 38 of 2010 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia, where Article 31 B states "The Asset Recovery Agency has the duty and authority to carry out tracing, confiscation, and return of assets obtained from criminal acts and other assets to the state, victims, or those entitled in accordance with the provisions of laws and regulations." The Attorney General's Office has maximized these duties and authorities in various corruption cases in Indonesia, both in cases with small to large scale losses, one example of a case is in the corruption case of Crude Palm Oil (CPO) export approval for the 2021-2022 period, where the Attorney General's Office confiscated Rp11.8 trillion from several companies, namely PT Multimas Nabati Asahan, PT Multi Nabati Sulawesi, PT Sinar Alam Permai, PT Wilmar Bioenergi Indonesia, PT Wilmar Nabati Indonesia.<sup>20</sup>

As a more real and concrete manifestation in the implementation of Presidential Regulation Number: 15 of 2024 concerning the Third Amendment to Presidential Regulation Number 38 of 2010 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia, on October 20, 2025, the Attorney General's Office handed over Rp. 13.25 trillion in funds from the corruption case of crude palm oil (CPO) exports and its derivative products to the Minister of Finance of the Republic of Indonesia,<sup>21</sup> Previously, Attorney General ST Burhanuddin explained that this measure was part of an effort to recover the majority of state losses involving several large corporations. The remaining portion, approximately Rp4.4 trillion, will still be paid through a deferral mechanism with corporate assets as collateral.

The example of this case is the implementation of the Attorney General's Office through the asset recovery agency for the return of assets obtained from criminal acts and other assets to the state, as well as monitoring, analysis, evaluation and reporting on the implementation of activities in the field of tracing, confiscation and return of assets obtained from criminal acts and other assets to the state, victims or those entitled to it because there are still pending payments for state losses with Company asset guarantees.

The recovery of state financial losses from defendants or perpetrators of corruption is a manifestation of legal certainty itself, in cases of corruption that cause losses to the state, there must be reciprocity and legal certainty for both the perpetrators of corruption and the state because when legal certainty for the payment of state losses can be implemented optimally it will bring many benefits to the life of the nation and state, in the case of corruption in the export of crude

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<sup>20</sup> <https://wantimpres.go.id/id/newsflows/kejugung-sita-total-rp118-triliun-di-kasus-korupsi-cpo/> accessed on November 23, 2025.

<sup>21</sup> <https://badiklat.kejaksaan.go.id/berita/s/presiden-prabowo-apresiasi-kejugung-pulihkan-rp13-2-triliun-dari-ebc37> accessed on November 23, 2025.

palm oil (CPO) and its derivative products, President Prabowo Subianto said that we can use the confiscated money to repair or renovate around 8,000 schools. This is a real step for the future of our children. The state must be present to repair the legacy damaged by corruption.

According to Lon H. Fuller, a late-generation natural law thinker, legal certainty means that someone will be able to obtain what they expect under certain conditions. Certainty can be translated as clarity of norms that can serve as guidelines for the community subject to these regulations. The meaning of legal certainty can be interpreted as there is clarity and firmness in the application of law in society. This is to prevent anything that causes misunderstanding. Legal certainty is the existence of clarity in general behavioral scenarios and binds all citizens, including their legal consequences. Legal certainty requires the creation of general regulations or general rules that apply generally and result in the general legal task of achieving legal certainty. This is done to create a safe and peaceful atmosphere in the wider community and its strict enforcement and implementation. The creation of a safe and peaceful atmosphere also applies if perpetrators of corruption can be subject to sanctions for the return of state financial losses because these results can benefit the wider community, thereby improving the quality of life to achieve the ideals of justice and peace in the state.

#### **4. Conclusion**

The role of the prosecutor's office in law enforcement efforts to return state finances from criminal acts of corruption committed by defendants can be implemented in two ways, namely by returning state finances through criminal channels, including: Tracing assets / wealth, Freezing assets, confiscation, Execution in order to return state financial losses, Confiscation of assets belonging to defendants and Returning state financial losses due to criminal acts of corruption through civil channels are contained in the provisions of Article 32 paragraph (1), (2), Article 33 and Article 34 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption and the Implementation of returning state financial losses from criminal acts of corruption through asset recovery agencies provides a greater chance of success in its success because in the internal regulations of the prosecutor's office and presidential regulations provide the authority to trace, confiscate and return assets obtained from criminal acts and other assets to the state, victims or those entitled.

#### **5. References**

##### **Journals:**

F. Saputra & H. Firmansyah, "Politik Hukum dalam Upaya Pemberantasan Tindak Pidana Korupsi melalui Pembaharuan Pengaturan Tindak Pidana Korupsi

sebagai Extraordinary Crime dalam KUHP Nasional," *UNES Law Review*, Vol. 6, No. 2, 2023.

Jawade Hafidz, kajian yuridis dalam antisipasi kejahatan cyber, *Jurnal Pembaharuan Hukum* Vol. I No.1, 2014.

Jimly Asshiddiqie, "Gagasan Negara Hukum Indonesia," Makalah Disampaikan dalam Forum Dialog Perencanaan Pembangunan Hukum Nasional yang Diselenggarakan oleh Badan Pembinaan Hukum Nasional Kementerian Hukum dan, November 2011.

Rambey, G., 2016, Pengembalian Kerugian Negara Dalam Tindak Pidana Korupsi Melalui Pembayaran Uang Pengganti dan Denda, *De Lega Lata: Jurnal Ilmu Hukum*, Vol. 1, No. 1.

Saputro, H. J., & Chandra, T. Y., 2021, Urgensi Pemulihan Kerugian Keuangan Negara Melalui Tindakan Pemblokiran Dan Perampasan Asset Sebagai Strategi Penegakan Hukum Korupsi, *Mizan: Journal of Islamic Law*, Vol. 5, No. 2.

Sinaga, M. R., 2021, Konsep Deferred Prosecution Agreement (DPA) Dalam Upaya Pemberantasan Korupsi Oleh Korporasi di Indonesia, *De Lega Lata: Jurnal Ilmu Hukum*, Vol. 6, No. 1, hlm. 80-97

Sosiawan, U. M., 2020, Penanganan Pengembalian Aset Negara Hasil Tindak Pidana Korupsi dan Penerapan Konvensi PBB Anti Korupsi di Indonesia, *Jurnal Penelitian Hukum De Jure*, Vol. 20, No. 4.

#### **Books:**

A. Djoko Sumaryanto, *Perspektif Yuridis Pengembalian Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi*, Penerbit Prestasi Pustaka: Surabaya, 2010.

Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, PT Citra Aditya Bakti, Bandung, 2004.

B. Waluyo, *Pemberantasan Tindak Pidana Korupsi: Strategi dan Optimalisasi*, Sinar Grafika: Jakarta, 2022.

Elwi Danil, *Korupsi konsep Tindak Pidana dan Pemberantasannya*, PT Raja Grafindo Persada, Jakarta, 2011.

Igm Nurdjana, *Sistem Hukum Pidana dan Bahaya Laten Korupsi Prespektif Tegaknya Keadilan Melawan Mafia Hukum*, Yogyakarta: Pustaka Pelajar, 2010.

J. Kristianto dan M. M. MM, *Pengertian Korupsi, Pengetahuan Dasar Antikorupsi dan Integritas*, Sinar Grafika : Jakarta, 2022.



Jeremy Pope, Strategi Memberantas Korupsi Elemen Sistem Integritas Nasional, Jakarta, Yayasan Obor Indonesia, 2007.

Muhammad Erwin dan Amrullah Arpan, Filsafat Hukum, (UNSRI, Palembang, 2007.

Prayitno Iman Santosa, Pertanggungjawaban Tindak Pidana Korupsi, Alumni, Bandung, 2015.