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Legal Review of Implementation Executorial Authority of the Prosecutor Regarding Court Decision in a Criminal Case of Corruption

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Abstract. *The issue of the prosecutor's executive authority is a problem that is not only related to the substance of legal norms, but also the issue of institutional structure in the context of Indonesian state institutions. However, what is clear is that until now the problem of corruption in Indonesia has not been resolved completely, but various hopes that the Indonesian nation will be free from corrupt practices and new determination accompanied by good values of law enforcement officials, especially prosecutors, will try to carry out their authority to deal with corruption more firmly and fairly. The aim of this research is to find out and analyze (1) the legal position of the Prosecutor in the corruption criminal justice system, (2) the comprehensive executive authority of the Prosecutor regarding corruption criminal court decisions, (3) the legal problems regarding the implementation of the Prosecutor's execution of corruption criminal court decisions. The approach method used in this study is normative juridical. The specifications of this study are descriptive analytical. The data source used is secondary data. Secondary data is data obtained from library research consisting of primary legal materials, secondary legal materials and tertiary legal materials. The research results and discussion can be concluded: (1) The prosecutor is the only state institution that is a government apparatus that has the authority to handle corruption crimes to transfer criminal cases, prosecute perpetrators of criminal acts in court and implement criminal judges' decisions and rulings, this power is a characteristic of the Prosecutor's Office that distinguishes other law enforcement institutions or agencies. (2) Specifications regarding the types of execution carried out by the Prosecutor in corruption crimes, namely first, the execution of asset confiscation, of which Article 18 both in Law No. 31 of 1999 and in Law No. 20 of 2001, regulates the confidentiality of assets obtained from corruption crimes, only as an additional punishment, not a principal punishment. (3) The first legal problem is the problem lies in the copy of the decision that has not been officially sent either to the convict or his* *legal counsel or to the Prosecutor as the executor. In several corruption cases, the convict and his attorney refuse to be executed if only with an excerpt of the decision. This execution problem cannot be separated from the minutation system (making copies of decisions) at the Supreme Court because the decision minutes process takes a long time.*

Keywords: *Corruption; Crime; Decision; Execution; Prosecutor's.*

1. Introduction

Indonesia is a democratic state based on Pancasila and the 1945 Constitution of the Republic of Indonesia, Article 1 Paragraph 2, sovereignty lies in the hands of the people and is implemented according to the law, Article 1 Paragraph 3.Terminologically, the term "rule of law" in the provisions of Article 1 paragraph (3) of the Third Amendment to the 1945 Constitution of the Republic of Indonesia does not refer specifically to one of the main concepts in the Western legal tradition, either Rechtsstaat or Rule of Law. This means that the term "rule of law" in the 1945 Constitution of the Republic of Indonesia is a relatively 'neutral' concept that opens up room for interpretation for new understandings in accordance with the paradigm and reality of the Republic of Indonesia.[1]

The development of criminal law and punishment has undergone constant change over the centuries. This is natural, as humans will always strive to improve their well-being by innovating based on past experiences. This development has also been felt by the Indonesian people, particularly in the area of criminal sanctions. The term criminal sanctions was first introduced on January 1, 1915, in the Wetboek van Strafrecht voor NederlandschIndie (WvSNI) regulations, which came into effect on January 1, 1918.[2] WvSNI was later known as Wetboek van Strafrecht (WvS) or Law Number 1 of 1946 concerning the Criminal Code (KUHP) which was in effect until the enactment of Law Number 1 of 2023 concerning the National Criminal Code (KUHPNasional).

As time progresses, human intelligence also increases. This can lead to humans becoming more intelligent and using their reason to commit crimes. Crime is a deviant behavior in a society that will always exist and be embedded in society. This means that crime will always develop and never recede, and this development then causes unrest in society. To address the problem of crime that occurs in society, criminal law is used as a means to resolve these criminal problems.

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[1]Beno, Gunarto and Sri Kusriyah, Implementation of Fully Required Elements in the Crime of Planning Murder (Case Study in Blora State Court), Jurnal Daulat Hukum, 3 (1), March 2020, p 110
[2]R. Abdoel Djamali, Introduction to Indonesian Law, Jakarta: PT. Raja Grafindo Persada, 2005.

One of the most common crimes in Indonesia is corruption. Corruption is no longer a new problem in any country, as it occurs in both developed and developing countries. Corruption is a familiar problem to the Indonesian people; it has become a habit or a part of the Indonesian culture, ingrained in the minds of those who commit corruption. Corruption has developed in various forms and modes of operation, causing losses to the country's economy and harming the interests of society.[3]

Indonesian society has long been familiar with corruption. Indonesia has ratified the Convention on the Eradication of Criminal Acts of Corruption through Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption of the Republic of Indonesia, which was amended by Law Number 20 of 2001 of the Republic of Indonesia (hereinafter referred to as the Corruption Law).

The word corruption comes from the Latin word "corruption," meaning damage or degradation, and is also used to denote a state or act of decay. Corruption is usually associated with dishonesty or financial fraud. Corruption, according to Black, is the unlawful use of public office for private gain in violation of one's obligations.[4]

Corruption has various definitions, but generally refers to acts that benefit oneself or others, harming the public interest or society at large. Corruption in Indonesia is a very serious problem and is not easy to eradicate because it is deeply rooted in the country. A specialized court is needed to handle corruption crimes and recover state assets lost due to corruption.[5]

The 1945 Constitution of the Republic of Indonesia firmly stipulates that the Republic of Indonesia is a state of law, where one of the important principles includes the guarantee of equality for everyone before the law (equality before the law), so that everyone has the right to recognition, guarantee, protection and certainty of fair law and equal treatment before the law. For this reason, the Attorney General's Office of the Republic of Indonesia as a government institution that carries out state power in the field of government must be free from the influence of any party's power by being carried out independently regardless of the influence of government power from the influence of other powers that carry out their duties and authorities must be able to realize legal certainty, legal order, justice and truth based on law by paying attention to religious norms, politeness

[3]Rudi Pardede, The Process of Recovering State Losses Due to Corruption, Genta Publishing, Yogyakarta, 2016, p. 3
[4]Elwi Danil, Corruption: Corruption as a Criminal Act and Its Eradication, Raja Grafindo Persada, Jakarta. 2011, p. 3
[5]Efi Laila Kholis, Payment of Compensation in Corruption Cases, Solusi Publishing, Jakarta, 2010, p. 5

and morality and must explore the values of humanity, law and justice also live in society.

A prosecutor is a functional official who is authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force as well as other powers based on law. The duties and powers of a prosecutor in the criminal field are regulated in Article 30 paragraph (1) of the Prosecutor's Office Law, including implementing judge's decisions and court decisions that have obtained permanent legal force.

Just because a judge has ruled on a case doesn't mean it's over. Sometimes, parties in a court case are dissatisfied and file a lawsuit against a judge's decision. Justice must be felt by all parties involved in the case, including the perpetrator of the crime, including the convict. The ultimate goal of the Criminal Procedure Code, which must be considered, is to ensure justice in the execution process.[6]

In the event that the judge's decision that has been read out is accepted by the parties to the case and no legal action is requested by the parties or no further legal action can be requested, the judge's decision is declared to have permanent legal force (in kracht).[7] The judge's decision, which has permanent legal force, will then be implemented by the authorized party, commonly known as execution. The authority to implement the judge's decision is the prosecutor. The prosecutor's office has the authority to carry out the judge's decision if the case has been decided and has permanent legal force, and there is no further legal remedy for the convict whose decision contains a criminal sentence. The task of implementing the judge's or court's decision is assigned to the prosecutor in accordance with the provisions of the Indonesian Prosecutor's Office Law. Law enforcement in Indonesia also includes implementing a court decision that has permanent legal force, which is carried out by criminal law enforcement officers.[8]

If Article 270 of the Criminal Procedure Code is linked to Article 197 paragraph 3 of the Criminal Procedure Code, the meaning of the word "immediately" can be interpreted as immediately after the Prosecutor receives a copy of the execution decision from the court clerk. This rule is in accordance with the contents of the Attorney General's circular regarding the responsibilities and duties of Prosecutors as executors of court judges' decisions. Because matters related to execution are very clearly and explicitly regulated in the Criminal Procedure Code, so no further interpretation is needed, let alone lower-level operational regulations to explain them. Moreover, if these regulations then give rise to confusion and legal conflicts.

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[6]I Wayan Edi Kurniawan, et al. Prosecutors as Executors in Court Decisions for Murder Crimes, Journal of Legal Preferences, 1 (2), September 2020, p. 154

[7]MN Hamang, Several Legal Efforts for Judges in Court Hearings in the Context of Just Decisions and Legal Determinations According to Islamic Law (Perspective of the Hadith of the Prophet SAW). Al-Syir'ah Journal, 1 (2). 2003

[8]I Wayan Edi Kurniawan, et al. Op.Cit, 1 (2), September 2020, p. 155

If the authority obtained by law is weakened by government regulations (especially Circular Letters) whose class is much lower than the Law, it means unconstitutional.

2. Research Methods

To conduct the study in this research, the author uses a normative juridical method. Considering that the problems being researched and examined adhere to the juridical aspect, namely based on norms, regulations, legislation, legal theories, and the opinions of legal experts. In normative legal research, law is conceptualized as a rule or norm that is the basis for human behavior that is considered appropriate. This research is categorized as normative research because it examines library materials against secondary data sourced from library materials. This research uses research specifications with a descriptive method. The descriptive method can be interpreted as the process of solving a problem being investigated by describing or depicting the current state of the subject or object of research based on apparent facts or as they are.[9]By using this type of research, the author aims to describe, depict and provide data as accurately as possible which is useful for investigating, solving problems that arise and analyzing and compiling them in the form of a thesis.

3. Results and Discussion

3.1. The Legal Position of Prosecutors in the Corruption Crime Justice System

The law establishes what must be done, what is permitted, and what is prohibited. The intended targets of the law are not only those who clearly commit unlawful acts, but also those who may be subject to legal action, and the state apparatus responsible for acting according to the law. This system of legal operation constitutes a form of law enforcement.[10]

No country does not desire order and order in society. Every country desires peace, tranquility, and a balanced order in society, which is now more popularly known as national stability. Human interests, both as individuals and groups, because they are always threatened by the dangers that exist around them, require protection and must be protected. Human interests will be protected if society is orderly, and society will be orderly if there is a balance of order in society. Society has an interest in restoring this disturbed balance. One element in creating or restoring balance in society is the enforcement of law or a judiciary that is free or independent, fair, and consistent in implementing or applying existing legal regulations and in dealing with violations of the law, by an independent body,

[9]Nawari Hadari, Legal Research Methods, Yogyakarta Gajah Mada University Press, 1987, p. 25.
[10]Yasmirah Mandasari Saragih, The Role of the Prosecutor's Office in Eradicating Criminal Acts of Corruption in Indonesia After Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, A'Adl, IX (1), January-April 2017, p. 50

namely the courts. Freedom/independence in judging and freedom from extrajudicial interference. The independence of the courts, judges, prosecutors, or the judiciary is a universal principle that exists everywhere.[11]Freedom of the judiciary is a dream for every nation and country.

In prosecuting, prosecutors act as both state attorneys and public advocates. In most countries, prosecutors also protect the public interest, so their attitude toward suspects/defendants and those they question must be objective and impartial.[12]

The prosecution of a case is exercised by the Attorney General's Office, the High Prosecutor's Office, the District Prosecutor's Office, and the District Prosecutor's Office Branches. Therefore, the prosecutor's office plays a crucial role in criminal justice, serving as the bridge between the investigation and the trial. Under Indonesian law, a person can only be tried if a public prosecutor files a criminal charge.

In almost every jurisdiction, the prosecutor is a key figure in the administration of criminal justice, playing a crucial role in the court's decision-making process. Even in countries that authorize prosecutors to conduct their own investigations, prosecutors retain broad prosecutorial discretion. Prosecutors have broad authority over whether a case will be prosecuted. The prosecutor's position is so important that Harmuth Horstkotte, a High Court Justice of the German Federation, has referred to prosecutors as "masters of the procedure" as long as the case is not brought to court.[13]

Before the HIR was enacted, the role of prosecutors was clear, with their role being merely an assistant to the Assistant Resident, and therefore lacking the authority of a public prosecutor, similar to the Openbaar Manisterie in European courts. Furthermore, prosecutors were under the authority of the regent, allowing the regent to issue orders. This position of prosecutors is evident in the practice of having limited authority, such as:

a. Does not have the authority to prosecute cases, only Resident Assistants are allowed to prosecute cases.

b. In court proceedings, the prosecutor does not have the authority to request a sentence for the accused (make a requisitoir), but can only put forward his feelings and opinions.

[11]Denny Saputra, et al. The Role of Prosecutors in the Justice System in Indonesia, Halu Oleo Law Review, 6 (2), September 2022, p 222
[12]RMSurachman and Andi Hamzah, Op.Cit, 1995. p. 6
[13]Ibid., pp. 6-7

c. Does not have the authority to carry out a court decision (execution), only the Assistant Resident has such authority.[14]

Thus, the role of prosecutors before the enactment of the HIR appears very limited, merely a subordinate or henchman of the Assistant Resistant. In comparison, the prosecutor's office in Indonesia has quite limited authority compared to prosecutors in the Netherlands, England, and America. The purpose of this comparison is to evaluate the role of the prosecutor's office in relation to the duties and authorities of the prosecutor's office as granted by law, taking into account global developments and the idea of amending the Criminal Procedure Code (KUHAP), where the KUHAP itself is the main instrument in the criminal justice system in Indonesia.[15]Apart from being stated in the Criminal Procedure Code, the duties and authorities of prosecutors in carrying out their functions as a sub-system/component of law enforcement in the Indonesian criminal justice system depend on the Prosecutor's Law.

The Attorney General's Office is a non-departmental institution, meaning it is not subordinate to any ministry. The Attorney General's Office is headed by the Attorney General, who reports to the President. This differs from the organizational structure of the Attorney General's Office in the Netherlands, the United Kingdom, and the United States, which is generally subordinate to the Ministry of Law. The Attorney General's office is at the ministerial level, therefore the Attorney General's Office is not subordinate to any ministry. The Attorney General leads the Attorney General's Office, which is divided into jurisdictions ranging from the provincial level (high prosecutor's office) to the district level (district prosecutor's office) throughout Indonesia. This jurisdictional division system mimics the Dutch system of division of jurisdictions, where the Netherlands has five high prosecutor's offices, each with between four and five district-level prosecutor's offices.

The primary duty of the prosecutor's office in the Indonesian criminal justice system is prosecution, and conversely, prosecution is the sole authority held by the prosecutor's office, and not by any other institution. The authority to prosecute is dominus litis of the prosecutor's office in Indonesia, the Netherlands, and the United States, but not in the United Kingdom. In the United Kingdom, prosecutions can be filed individually, but in certain cases, individual prosecutions can be taken by the prosecutor's office.

Article 2 paragraph (1) of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, reads: "The Attorney General's Office of the Republic of Indonesia,

[14]Rusli Muhammad, Indonesian Criminal Justice System, Yogyakarta: UII Press, 2011, p. 93.
[15]Tolib Effendi, Criminal Justice System, Comparison of Components and Processes of Criminal Justice Systems in Various Countries, Yogyakarta: Pustaka Yustisia, 2013, p. 153.

hereinafter referred to as the prosecutor's office in this Law, is a government institution that exercises state power in the field of prosecution and other authorities based on law." Based on this article, it is understood that the Attorney General's Office is included in the executive realm.

Article 284 paragraph (2) states: "within two years after this law is enacted, the provisions of this law shall apply to all cases, with temporary exceptions regarding special provisions on criminal procedures as stated in certain laws, until they are amended and/or declared no longer valid." With the explanation of Article 284 paragraph (2):

a) What is meant by all cases are cases that have been submitted to court.

b) What is meant by "special provisions" of criminal procedure as in certain laws" are special provisions of criminal procedure as in:

a. Law on the investigation and prosecution of economic crimes (Emergency Law No. 7 of 1955)

b. Law on the eradication of criminal acts of corruption (Law No. 3 of 1971), with the note that all special provisions of criminal procedure as referred to in certain laws will be reviewed, amended or revoked within the shortest possible time.[16]

The Prosecutor's Office is the only state institution which is a government apparatus authorized to transfer criminal cases, prosecute perpetrators of criminal acts in court and implement the determination and verdict of criminal judges, this power is a characteristic of the Prosecutor's Office that distinguishes it from other law enforcement institutions or bodies. In addition, in general criminal acts the Prosecutor is only a public prosecutor, but in special criminal acts in this case corruption the Prosecutor plays the role of investigator and public prosecutor. As an investigator, special expertise and skills are required to search for and collect evidence so that the suspect can be found. Basically, the investigation and inquiry of every criminal act is the beginning in handling every criminal act, especially corruption.

Investigators in Corruption Crimes are first handled by investigators from the Prosecutor's Office or by National Police Investigators. In special crimes, the prosecutor acts as an investigator. The legal basis that grants the Prosecutor's Office the authority to investigate corruption crimes is Article 30 paragraph (1) letter d of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which states "in the criminal field, the Prosecutor's Office has the duty and authority to conduct investigations into certain crimes.

[16]Ibid

Based on this article, the crime of corruption is a special crime in the sense that it has special provisions of criminal procedure. Thus, the Prosecutor's Office has the authority to conduct investigations. Crimes that contain provisions for certain crimes are called "special crimes." The crime of corruption based on Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption contains "special provisions of criminal procedure" including:

1) The suspect is obliged to provide information about all corporate assets known to him (Article 28);

2) The accused has the right to prove his innocence (Article 37).

3) If the defendant has been legally summoned and does not appear at the court hearing without a valid reason, the case can be examined and decided without his presence (Article 38).

In carrying out their duties, the law enforcement apparatus constitutes a subsystem of the criminal justice system. Within this law enforcement framework, each subsystem has a distinct role according to its field and in accordance with statutory provisions, but together they share a common goal: combating crime and rehabilitating convicts. The operation of each subsystem must be in accordance with the statutory provisions that govern it. One of the law enforcement subsystems of the criminal justice system is the Prosecutor's Office. Law and law enforcement are some of the law enforcement factors that cannot be ignored because if ignored will result in the failure to achieve the desired law enforcement. Therefore, the existence of the Prosecutor's Office, as one element of the criminal justice system, has an important position and a strategic role in a state of law because the Prosecutor's Office acts as a filter between the investigation process and the examination process in court, so its presence in society must be able to carry out the task of law enforcement.[17]

As the public prosecutor in a criminal case, the prosecutor must clearly understand all the work that investigators are required to perform from beginning to end, all of which must be carried out in accordance with the law. The prosecutor will be responsible for all aspects of the defendant's treatment, from the suspect's initial investigation, to his or her case investigation, to his or her detention, and finally to whether the prosecutor's charges are legally valid and correct, ensuring that the public's sense of justice is truly satisfied.

The reference to only one public prosecutor when referring to the Prosecutor's Law is a unique prosecution system, een enondeel baar (The Prosecutor is one and inseparable), is in the current practice order, and the principle is supported by the

[17]Marwan Effendy, Attorney General of the Republic of Indonesia, Gramedia Pustaka Utama, Jakarta, 2005, p. 2.

fact that the existence of the Public Prosecutor is more divided within the Corruption Eradication Commission. In this situation the KPK effectively eliminates the sovereignty of the Prosecutor's Office. In addition, prosecution is no longer a single judicial system, namely "een enondeel baar" (The Prosecutor is one and inseparable). Public prosecutors who work at the KPK are prosecutors who have been dismissed from the Prosecutor's Office and/or temporarily suspended from their duties at the Prosecutor's Office.[18]

Just as a Public Prosecutor who becomes a member of the Corruption Eradication Commission (KPK) and then carries out the prosecutorial function does not violate the provisions of the Criminal Procedure Code which states that a Public Prosecutor can act as a Public Prosecutor without appointing an authorized official. Thus, the Prosecutor's Office acting as a prosecutor in the Attorney General's Office or the Corruption Eradication Commission still has the authority to prosecute. However, in principle, the KPK violates the principle of separation, which stipulates that the Prosecutor's Office is not separated, as stated in Article 2 Paragraph (3) of the Prosecutor's Law. In fact, the intention of this article as stated in the explanation of the article is so that the Prosecutor does not stop investigating corruption cases in court.

A closer look at the original provisions of the Dominus Litis doctrine reveals a lack of clarity regarding the authority of policymakers to prosecute crimes in Indonesia. This is because the Corruption Eradication Commission's (KPK) authority to prosecute violates the principle of dominus litis, where the Prosecutor's Office controls the proceedings. Based on the principle of en on deelbaar, the Prosecutor's Office is one and indivisible. It is believed that the KPK regulations were drafted with a strong desire to eradicate corruption, resulting in violations of the principles and legal order, such as the public prosecutor's failure to comply with the prosecution's mandate.[19]

According to the Attorney General for the 2010-2014 period, Basrief Arief, the authority to prosecute corruption cases should be returned to the Attorney General in his capacity as prosecutor, as stipulated in the Criminal Procedure Code. In other countries, prosecutions are carried out by the Prosecutor's Office, and the Public Prosecutor is the Public Prosecutor, where the Prosecutor has a more visible presence without mentioning the name of his institution.[20]A general legal interpretation states that the Prosecutor's Office Law is an attempt to reform the Prosecutor's Office system to enhance its position in law enforcement. The

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[18]Naomi Artadinata, Sahuri L. Arrangements of Public Prosecutors in Handling Corruption Crimes Based on the Principle of Dominus Litis, Pampas: Journal of Criminal Law, 4 (3), 2023, p. 316
[19]OC Kaligis, Analogy of Legal Science Writings, Bandung, PT Alumni, 2011, pp. 85-86
[20]Naomi Artadinata, Sahuri L. Op.Cit, 4 (3), 2023, p 317

Prosecutor's Office is said to have the power to prosecute anyone accused of a crime and refer the case to a court with competent jurisdiction.

The stages of prosecution in a corruption case include proving the elements in the indictment and presenting the evidence. Law No. 31/1999 uses two systems of proof:

a. Reverse proof system, limitations and counterweights.

b. Negative evidence system based on law.

The reverse and balanced proof that the defendant has the right to provide evidence that the defendant did not commit corruption. The defendant is obliged to explain the ownership of all his property, his wife/husband, his children and the property of every person or body known or suspected to be related to the corruption committed. For the defendant who cannot provide evidence of obtaining his property unfairly/the defendant does not use his right to provide evidence to the contrary. Used to strengthen his evidence, that the defendant committed corruption. However, the Public Prosecutor is obliged to provide evidence of losses from his corruption act.

At the pre-adjudication stage, if the defendant's confiscated assets cannot be proven to be from corruption, the prosecutor demands that they be confiscated for the state. At the prosecution stage, the prosecutor demands the replacement money, as proven in court. The amount is the same as the amount of the corrupt assets. The replacement money demanded is based on facts at the hearing, derived from information from expert witnesses and witnesses of the defendant. If the confiscated evidence matches the demands for confiscation by the state, it is easy to enforce the decision regarding the replacement money through the confiscation route. The assets are proven to be in the possession of law enforcement. In practice, the evidence money is deposited into the state treasury via a bank. If it is in the form of movable property, it is auctioned, and the proceeds are deposited into the state treasury.[21]

The Prosecutor's Office is the only state institution that is a government apparatus authorized to transfer criminal cases, prosecute perpetrators of criminal acts in court and implement criminal judges' decisions and rulings. This power is a characteristic of the Prosecutor's Office that distinguishes it from other law enforcement institutions or bodies. In prosecutions, they are carried out independently, free from the influence of government power and the influence of other powers. The Prosecutor's Office as one of the law enforcement institutions

[21] Chandra Irawan, et al. The Authority of Prosecutors in Confiscating Assets of Corruption Defendants, Wajah Hukum, 7 (2), October 2023, p. 283

is required to play a greater role in upholding the supremacy of law, protecting public interests, upholding human rights, and eradicating corruption.

3.2. Comprehensive Executorial Authority of the Prosecutor Regarding Court Decisions on Corruption Crimes

Corruption is a social ill, along with other crimes such as theft, which has existed since the beginning of human society. Corruption increases with advancements in prosperity and technology.[22]Etymologically, the term corruption comes from the Latin corruptus, meaning evil, dishonesty, and immorality. In English and French, the term "corruption" is also used, meaning the abuse of authority for personal gain. Corruption is a word we are all familiar with. Not only in Indonesia, but corruption is a problem faced by almost every country in the world. From this definition, it can be concluded that the term "corruption" is not only used to describe the misuse of money. Abuse of authority can also involve time, and so on. However, the term "corruption" is increasingly used to describe the misuse of funds for personal gain.[23]

In Indonesia, corruption is categorized as a criminal act with penalties stipulated in specific regulations, namely Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. Although it has been clearly explained that corruption is a deviant act with penalties determined, in fact, to this day, corrupt practices continue to mushroom in the Indonesian government system because corruption is inherent in the very fabric of Indonesian life.[24]

Institutionally, special courts are generally located within a first-instance court, such as a district court. This structure essentially resembles a special chamber within a court, lacking a distinct organizational structure with a chairperson, deputy chairperson, clerk, or court secretary. The administration of these special courts is part of the administration of their parent court.

The Corruption Court, as regulated in Law No. 46 of 2009 concerning the Corruption Court, has expanded its authority to two aspects: the institution that carries out the prosecution and the type of crime that can be tried. Law No. 46 of 2009 stipulates that the Corruption Court no longer only tries cases prosecuted by the Corruption Eradication Commission (KPK) prosecutor, but also by prosecutors from the Attorney General's Office. Thus, the dualism of authority of the court authorized to try corruption cases no longer exists. Consequently, all corruption cases are tried in the Corruption Court, with one exception, namely corruption cases committed by members of the military. Furthermore, while previously the

[22]Andi Hamzah, Comparison of Corruption Eradication in Various Countries, PT. Sumber Ilmu Jaya, Jakarta, 2002, p. 1.
[23]Rudolf Johanes Hasoloan, Op.Cit, 7 (2), 2022, p. 284
[24]Lasmauli Noverita Simarmata, Op.Cit, 11 (2), 2021, p. 88.

Corruption Court only had the authority to try corruption cases, this law adds the authority to try money laundering cases, provided that the predicate crime of the money laundering case is corruption.

The Corruption Court, as regulated by Law 46/2009, retains the panel of judges, consisting of career judges and ad hoc judges. However, the number and composition of the panel of judges no longer have to consist of five judges, but can consist of as few as three. This law also eliminates the requirement for a majority of ad hoc judges. The law delegates the number and composition of the panel of judges in corruption cases to the Chief Justice or the Chief Justice of the Supreme Court.[25]

A judicial process ends with a final decision or verdict. In the decision, the judge states his opinion on what has been considered in his decision. A verdict is defined as the result or conclusion of something that has been carefully considered and assessed, which can be in writing or orally. Fockema Andrea's legal dictionary defines the word "verdict" (vonnis) as a "fixed verdict" (definitief). A verdict, translated from "vonnis," is the final result of a case examination in court.[26]

Execution of a court decision is something that needs to be done to fulfill the demands of the Public Prosecutor to the Defendant, but Not all court decisions can be immediately executed by prosecutors. However, prosecutors cannot yet execute court decisions that have not yet been legally binding and that the defendant still has legal recourse to enforce. Only decisions that have been legally binding are eligible for execution, as they already constitute a legal bond between the parties involved in the case. The prosecutor will carry out the execution sentence imposed on the convict in accordance with the contents of the verdict.[27]

Therefore, in implementing the court decision, a prosecutor must know and understand the procedures for implementing court decisions. To expedite the implementation of the court decision, the Attorney General's Office of the Republic of Indonesia issued technical or administrative instructions in handling the execution of court decisions that have permanent legal force, namely through Letter Number B-235/E/3/1994 dated March 4, 1994 concerning the Execution of Court Decisions and Decree of the Attorney General of the Republic of Indonesia Number KEP-518/A/JA/11/2001 dated November 11, 2001 concerning Amendments to the Republic of Indonesia Decree Number KEP-132/JA/11/1994 dated November 7, 1994 concerning the Administration of General Criminal Cases.

[25]Asril, Astriyani, Dian Rositawati, M. Tanziel Aziezi, Corruption Courts in Indonesia Post-2009, LeIP, 2021, p. 49
[26]Leden Marpaung, Criminal Case Handling Process, Sinar Grafika, Jakarta, 1992, p. 406
[27]S. Sutarto, Criminal Procedure Law, Volume II, Undip Publishing Agency, 2008

The Prosecutor's Office as an institution authorized as a public prosecutor and investigator in eradicating criminal acts of corruption based on Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Criminal Acts of Corruption as material criminal law and Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, as well as Law No. 8 of 1981 concerning Criminal Procedure Law (KUHAP) as formal criminal law, has a very important role in resolving and eradicating this criminal case.

In the process of handling corruption cases, prosecutors can act as both investigators and public prosecutors. Therefore, their role in eradicating corruption through the penal system is very dominant. Penal means eradicating criminal acts using criminal law in handling them. Prosecutor's officers must possess professional expertise, both regarding understanding and mastery of laws and regulations as well as technological developments. This is so that the eradication of corruption can be successful. This mastery is very important because perpetrators of corruption have their own characteristics. The characteristics of perpetrators of corruption are generally carried out by people with high education and holding positions often known as white collar crime.

The very important role of the Prosecutor in handling corruption cases is reinforced by the formulation of Article 27 of Law No. 31 of 1999 concerning the Eradication of Corruption, namely "In the event that a corruption crime is found that is difficult to prove, a joint team can be formed under the coordination of the Attorney General. This provision shows that in the context of law enforcement against corruption, the institution that is prioritized is the Attorney General's Office."

The basis for the Attorney General's Office in carrying out its duties and authorities in conducting investigations and prosecutions of corruption crimes refers to Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as material law and Law No. 8 of 1981 concerning Criminal Procedure Law (KUHAP) as formal criminal law, as well as Law No. 11 of 2011 concerning Amendments to Law No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia.

Based on the applicable laws, the Prosecutor at the Republic of Indonesia Prosecutor's Office is given the task and authority as the executor of court decisions on corruption crimes in implementing court decisions and judge's decisions, the prosecutor's office must pay attention to the legal values that exist in society and humanity based on Pancasila without neglecting firmness in attitude and action. Executing court decisions also includes carrying out the task and authority to control the implementation of the death penalty and court decisions on confiscated goods that have been and will be confiscated for subsequent auction sale.

In the confiscation of confiscated goods must be auctioned in accordance with the regulations of the Attorney General, and if the auction proceeds exceed the obligation of compensation, fines, restitution or other additional penalties, the remaining auction proceeds will be auctioned, or must be returned to the perpetrator, his family, or a third party for a valid reason. Auction of goods confiscated by the prosecutor's office after a judge's decision that has permanent legal force is regulated in the Regulation of the Attorney General of the Republic of Indonesia Number 10 of 2019 concerning Amendments to the Regulation of the Attorney General Number PER-002 / A / JA / 05/2017 concerning Auction and Direct Sale of Confiscated Goods or State Confiscated Goods or Execution Confiscated Goods. Other legal legitimacy in terms of auctioning confiscated assets of corruption crimes includes the Circular Letter of the Attorney General No. SE010/A/JA.08/2015 concerning the Prosecutor's Obligation to auction confiscated goods that are easily damaged or require high storage costs and Attorney General Regulation Number 9 of 2019 concerning Amendments to Attorney General Regulation Number PER-027/A/JA/10/2014 concerning Guidelines for Asset Recovery.[28]

The proceeds from the auction of confiscated goods are the receipts of the Prosecutor's Office, PPA and the State Auction Office and must be deposited into the State Treasury in cash and the proceeds from the auction of confiscated goods are carried out without any deductions and must be immediately deposited into the State Treasury within 1x24 hours. Depositing the proceeds from the auction of confiscated goods to the State Treasury is carried out by the auctioneer on behalf of the Special Treasurer/Receiver of the Prosecutor's Office concerned and the Special Treasurer/Receiver of the Prosecutor's Office concerned as the Prosecutor's PNBP. If the local prosecutor's office does not have a State Treasury, the proceeds from the auction are deposited into a Government-Owned Bank or Giro Pos for the State Treasury account and the auction costs and poor money are charged to the buyer or auction holder and are not permitted to be taken from the auction proceeds.[29]

3.2. Legal Problems in the Prosecutor's Implementation of Court Decisions on Corruption Crimes

The criminal justice system is a judicial network that uses criminal law as its main tool, both material criminal law, formal criminal law and criminal enforcement law, the criminal justice system contains systemic movements from its supporting

[28]Albert Sembiring & Yohana Br Manik, Legal Review of the Auction of Confiscated Goods Conducted by the Corruption Eradication Commission (Linked to Government Regulation Number 105 of 2021 concerning the Auction of Confiscated Goods by the Corruption Eradication Commission), Jurnal Res Justitia: Jurnal Ilmu Hukum, 2 (2), July 2022, p. 400

[29]Elrica Debora Mosal, Anna Wahongan, Harly Stanly Muaja. Procedures for Implementing the Auction of Confiscated Goods by the Prosecutor's Office Following a Judge's Decision that Has Permanent Legal Force, Lex Privatium, 11 (1), 2023, p. 4

subsystems, namely the police, prosecutors, courts and correctional institutions, which as a whole and are a unit trying to transform input into the goal of the criminal justice system, namely, tackling crime or controlling the occurrence of crime so that it is within the limits of tolerance that can be accepted by society. However, this substantial institution must be seen in a social framework or context. An overly formal nature if based only for the sake of legal certainty alone will bring disaster in the form of injustice, thus for the sake of what is said to be precise justice, then material measures, which are clearly based on the principles of general justice must really be considered in law enforcement.[30]A prosecutor is a functional official who is authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force and other authorities based on law.

According to the provisions in Article 2 Paragraph (1) of the Attorney General's Law, it is stated that the Attorney General's Office of the Republic of Indonesia is a government institution that exercises state power in the field of prosecution and other authorities based on law.[31]Meanwhile, the person who carries out these duties, functions and authorities is called a Prosecutor. This is emphasized in Article 1 Paragraph (1) of the Prosecutor's Office Law, namely, "A Prosecutor is a functional official who is authorized by law to act as a public prosecutor and implement court decisions that have obtained permanent legal force and other authorities based on law." So, it needs to be emphasized that in addition to his duties in the field of prosecution, he is also given other authorities by law, for example as a State Attorney, Executor of court decisions that have obtained permanent legal force, as an investigator of certain crimes, and so on.

Prosecutors also have duties and authority related to the eradication of criminal acts of corruption in accordance with Article 30 paragraph (1) of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, namely in the criminal sector, the prosecutor's office has the following duties and authorities:

1) Conducting prosecution;

2) Implementing judges' decisions and court decisions that have obtained permanent legal force;

3) Supervise the implementation of conditional criminal decisions, supervised criminal decisions and conditional release decisions;

4) Conducting investigations into certain criminal acts based on the law;

[30]Rusli Muhamad, Op.Cit, 2011, p. 13
[31]Marwan Effendy, The Attorney General's Office of the Republic of Indonesia, Its Position and Function from a Legal Perspective, Ghalia Indonesia, 2007, p. 127

5) Complete certain case files and for this purpose can carry out additional examinations before being submitted to the court, the implementation of which is coordinated with investigators.

Before carrying out the execution, the prosecutor issues a P-48 (Order to Execute the Judge's Decision) signed by the Chief Prosecutor. If the defendant is already in custody, the P-48 Letter is given by the prosecutor to the correctional officer, and the defendant's status is changed to that of a convict.

A BA-8 (Minutes of the Implementation of the Judge's Decision) is prepared, the contents of which order the convict to carry out the prison sentence stipulated in the judge's decision. The task of providing guidance to the convict will be the responsibility of local correctional institution officers. The prosecutor will coordinate with the correctional institution.

if there is a conditional release decision. Before the prosecutor executes the fine and money

In lieu of this, the prosecutor will receive the results of the calculation of state financial losses from the BPKP in the form of an Audit Result Report (LHP), then the prosecutor will determine how much money will be paid by the convict and make a P-48 letter.[32]

To address this issue, the ideal timeframe for the decision-making process should also be completed within 14 days, as outlined in SEMA No. 1 of 2011 and three other judicial law packages, which mandate that copies of decisions (for ordinary cases) must be sent to the parties within 14 days of the decision being pronounced. Therefore, the urgent decision-making system needs to be improved by issuing a SEMA that sets a maximum timeframe for completing a decision-making process of 14 days.

4. Conclusion

The Prosecutor's Office is the only state institution which is a government apparatus authorized to transfer criminal cases, prosecute perpetrators of criminal acts in court and implement criminal judges' decisions and decisions, this power is a characteristic of the Prosecutor's Office that distinguishes other law enforcement institutions or agencies. In addition, in general criminal acts the Prosecutor is only a public prosecutor, but in special criminal acts in this case corruption the Prosecutor acts as an investigator and public prosecutor. In special criminal acts the Prosecutor acts as an investigator. The legal basis that grants the Prosecutor's Office the authority to investigate criminal acts of corruption is Article 30 paragraph (1) letter d of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of

[32]Marwan Effendy, Op.Cit, 2005, p. 56

Indonesia which states "in the criminal field, the Prosecutor's Office has the duty and authority to conduct investigations into certain criminal acts." The reference to there being only one public prosecutor when referring to the Prosecutor's Law is a unique prosecution system, een enondeel baar (the Prosecutor is one and inseparable), is in the current practice order, and the principle is supported by the fact that the existence of the Public Prosecutor is more divided in the corruption eradication commission. Just as the Public Prosecutor who becomes a member of the Corruption Eradication Commission and then carries out the prosecutorial function does not violate the provisions of the Criminal Procedure Code which states that the Public Prosecutor can act as a Public Prosecutor without appointing an authorized official. Thus, the Prosecutor's Office acting as a prosecutor in the Attorney General's Office and the Corruption Eradication Commission still has the authority to prosecute. However, in principle the Corruption Eradication Commission violates the principle of separation, which stipulates that the Prosecutor's Office is not separated, as stated in Article 2 Paragraph (3) of the Prosecutor's Law.

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