



## Legal Analysis of Unlawful Acts in Corruption Crimes (Study of Decision Number 44/PID.SUS-TPK/2024/PN MDN)

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### ARTICLE INFO

*Keywords:* Acts Against the Law, Corruption Crimes, Legal Accountability

*Received :* 29 December 2024

*Revised :* 15 January 2025

*Accepted:* 16 February 2025

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### ABSTRACT

Legal accountability in corruption crimes is a legal consequence or liability that must be borne by the perpetrators of corruption crimes due to the losses they have caused. In the context of Indonesian law, corruption crimes are clearly regulated in Law Number 31 of 1999 concerning Corruption Crimes as amended by Law Number 20 of 2001 on the Eradication of Corruption Crimes (UU PTPK). In this writing, the author focuses on the forms of criminal liability in corruption crimes and acts against the law within corruption crimes, particularly in the case study of decision number 44/Pid.Sus-TPK/2024/PN Mdn. This study emphasizes a normative legal research method with a descriptive approach, where the research results aim to further examine the judicial considerations in deciding a case, particularly corruption cases.

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## **INTRODUCTION**

Every citizen's behavior is regulated by law, where every aspect of life has applicable rules, provisions, and regulations. The law regulates what must be done, what is allowed, and what is prohibited. One branch of law is criminal law, which regulates certain prohibited acts. Meanwhile, criminal acts refer to acts that violate legal provisions, which are accompanied by threats or sanctions.

One of the criminal acts that is often in the spotlight in Indonesia is the problem of corruption. Corruption has become a familiar problem in this country. In fact, corruption in Indonesia has been considered an extraordinary crime, because its impact not only damages state finances and economic potential, but also erodes the pillars of socio-culture, morality, politics, and the national security system.

Corruption has caused enormous state losses. The facts show that the value of the losses incurred is much greater than the amount of money that has been returned to the state. Corruption can even hinder the process of national development. In society, this corrupt practice can be found in various forms and is carried out by various groups, both in terms of social and economic strata. One of the criminal practices of corruption in the community is the misuse and embezzlement of village funds carried out by village officials, where we know that village funds are funds allocated in the State Revenue and Expenditure Budget (APBN) for villages, which are channeled through the Regional Revenue and Expenditure Budget (APBD) of the district/city. These funds are used to finance village government activities, development, community development, and community empowerment. These village funds are funds used by the village receiving the funds to improve community welfare, reduce poverty, improve the community's economy and carry out activities that can develop the village. In its implementation, these village funds must be used and managed by the village as well as possible by using transparent, accountable methods, and involving the village community in the use of these funds. The use of these funds can also be directly supervised by the village community by paying attention to every management of village funds carried out within a period of 1 (one) year or since the funds were received by the village.

Village fund corruption is often found in regional (village) governments in various countries. The impact of systematic corruption can cause economic losses by damaging incentives, political losses by weakening government institutions, and social losses due to wealth and power being concentrated in the hands of irresponsible parties. If corruption has spread so deeply and damaged the legal system, ignored property rights, disrupted incentives and investment, then development in the economic and political sectors will be hampered and stagnant. Article 2 paragraph (1) of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 explains that people who intentionally carry out unlawful acts to enrich themselves, others, or a corporation, which ultimately can harm state finances or the state economy, can be subject to sanctions. Furthermore, Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 also explains corrupt behavior through abuse of authority.

The existence of the Corruption Eradication Law (UU TPK) is expected to be a solution in eradicating corruption in Indonesia. However, the process of eradicating corruption cases still faces various difficulties, with steps that are sometimes hampered until now. Corruption is a crime that continues to occur and has not been fully resolved, so that this practice has spread to various government sectors, even state-owned companies. Without realizing it, corruption often starts from habits that are considered normal by society, such as giving gifts to officials or employees, or even to their families, as a form of reward for certain services. These corrupt habits can slowly develop into the roots of greater corruption. There are often differences of opinion among legal practitioners in applying the articles in the Corruption Eradication Law (UU PTPK). According to the Big Indonesian Dictionary (KBBI), corruption is defined as the misappropriation or misuse of state money (or that of companies, organizations, foundations, and the like) for personal gain. According to Haryatmoko, corruption is the ability to abuse one's position or authority by manipulating information, decisions, influence, money, or wealth for personal gain. Meanwhile, according to Henry Campbell Black, corruption refers to an act carried out with the aim of obtaining benefits that are not in accordance with official obligations and the rights of other parties.

Another problem that is often encountered in law enforcement practices is the lack of government commitment in following up on the results of supervision, as well as weak coordination between supervisory officers and law enforcement officers. In addition, the application of inappropriate articles by prosecutors, lawyers, and judges in imposing sentences in corruption cases is also an obstacle. Sometimes, the articles imposed do not correspond to the elements in a case. For example, even though a case meets the elements of Article 2 of the PTPK Law, Article 3 is imposed, which carries a lighter threat of sanctions. This may occur to reduce the sentence against the perpetrator. Conversely, cases are often found where the perpetrator is sentenced to Article 2, even though his actions only meet the elements of Article 3, namely abuse of authority in his capacity as an office holder.

The provisions of the Corruption Eradication Law (UUPTK) clearly regulate the scope of corruption. The provisions of the law state that corruption is not only committed by State Civil Apparatus/Civil Servants but can also be committed by parties outside the government such as the private sector. This expansion certainly aims to ensure that the corruption eradication law is able to ensnare perpetrators of corruption. In the provisions of Article 13 of the Corruption Law, there are 30 types of crimes that can be categorized as corruption, which are then divided into seven groups, namely;

1. Actions that Cause State Losses;
2. Actions Containing Elements of Bribery;
3. Actions Relating to Embezzlement in Office;
4. Actions Containing Elements of Extortion;
5. Actions That Can Be Categorized as Fraudulent Acts;
6. Actions Relating to Conflict of Interest in Procurement;
7. Gratification

With the increasing scope of corruption, of course the handling of this crime must be carried out as well as possible so that the perpetrators of corruption can be caught in the elements of the articles applicable in the law on corruption. Law number 31 of 1999 as amended to Law number 20 of 2001 is a legal basis for law enforcement in corruption. The provisions of this Law clearly regulate several criminal sanctions against perpetrators of corruption such as the imposition of principal criminal sanctions and/or the imposition of additional criminal penalties such as fines imposed simultaneously.

Law enforcement against corruption in Indonesia involves various institutions that have the authority to examine, try, and decide cases related to abuse of authority by state officials or state agencies. The main objective of this effort is to create justice, order, and peace in society. Success in eradicating corruption is highly dependent on commitment and solid cooperation between various parties, including law enforcement officers such as the police, prosecutors, judges, advocates, the community, and special institutions such as the Corruption Eradication Commission (KPK). Synergy between all these elements is needed to ensure that the legal process runs effectively, transparently, and is not hampered by intervention or certain interests. Based on the background description above, the author is interested in studying the Analysis of Legal Protection for Unlawful Acts in Corruption (Study of Decision Number 44 / Pid.Sus-Tpk / 2024 / Pn Mdn).

## **LITERATURE REVIEW**

### **Overview of Illegal Acts**

#### **a. Definition of Illegal Acts**

An illegal act can be defined as an act that is not in accordance with applicable laws or regulations. When someone commits such an act, they are required to compensate for the losses incurred as a result of that act. The impact of illegal acts is very significant for interactions between individuals in society, and it is important to have a deep understanding of the legal basis, underlying theory, and related legal philosophy. In general, the term "act" can be explained as follows:

- Nonfeasance: Not doing something that should be done according to law;
- Misfeasance: Doing an act in the wrong way, even though it is one's responsibility.
- Malfeasance: Doing an act that one does not have the right to do.

#### **b. Elements of Illegal Acts**

In legal theory, an unlawful act is considered a violation of legal norms that cause harm to another party. The elements of an unlawful act can be categorized into several parts, namely:

- 1) Act: Real action or negligence carried out by an individual.
- 2) Violating the law: The act is contrary to existing legal norms, such as laws or regulations.
- 3) Loss occurs: As a result of the act, the other party experiences losses both materially and immaterially.
- 4) Causal relationship: There is a clear relationship between the unlawful act and the loss that occurs.

The elements of action in violating the law are not only limited to positive actions (doing something), but also include negative actions (not doing something according to obligations). An action is considered positive if someone does something that violates the law, while it is considered negative if they should do something based on the law or subjective obligations but do not do so, thereby harming others. In fact, the inability to act or remain silent can also be considered a violation of the law.

## **General Overview of Criminal Liability**

### **a) Definition of Criminal Liability**

In criminal law, liability can be interpreted as responsibility for a criminal act. In Dutch it is called *torekenbaarheid*, while in English it is known as criminal responsibility or criminal liability. This concept refers to the imposition of sanctions on the perpetrator for committing a prohibited act or causing a prohibited condition. Thus, criminal liability is related to the process of transferring punishment for a criminal act to the perpetrator.

The concept of criminal liability is not only related to the legal aspect alone, but also includes moral values and moral norms adopted by society or certain groups. This aims to ensure that criminal liability can be enforced fairly. Criminal liability functions to determine whether a suspect or defendant can be held accountable for a criminal act that has occurred. In other words, this concept assesses whether a person should be acquitted or sentenced. Criminal liability can also be understood as the process of transferring objective blame attached to a criminal act, provided that the perpetrator meets the subjective elements to be punished. Objective blame refers to actions that are legally prohibited, both in formal and substantive law, because they are contrary to applicable norms.

### **b) Conditions for Criminal Responsibility**

#### **a. Intentionally**

In the Criminal Code (Criminal Wetboek) of 1809, it is stated that "intentionally" refers to the will to do or not do an act that is prohibited or required by law. Meanwhile, in the *Memori van Toelichting* (Mvt) submitted by the Minister of Justice when submitting the Criminal Wetboek in 1881 – which later became the basis for the Indonesian Criminal Code of 1915 – it is explained that "intentionally" means there is awareness in the will to commit a certain crime. According to the theory of knowledge or the theory of imagination, humans cannot absolutely will a result, but can only want, expect, or imagine it. An action is categorized as intentional if the resulting result has been imagined in advance as the goal of the action, so that the action is carried out in accordance with the initial image that has been formed. The types of intent can be divided into several parts, namely:

1. Intentional as an intention (*opzet als oogemark*)
2. Intentional with awareness of certainty (*opzet met bewustheid van zekerheid of noodzakelijkheid*)
3. Intentional with awareness of the possibility of it happening (*opzet met waarschijnlijkheidbewustzijn*)

b. Negligence (*culpa*)

The law does not explicitly define what is meant by negligence. However, in the *Memori van Toelichting (Mvt)*, it is explained that negligence (*culpa*) is between intentional and accidental. According to Hazewinkel Suringa, the crime of *culpa* is considered a pseudo-crime, so the punishment is lighter.

In the *Memori van Antwoord (MvA)*, the Government states that someone who commits a crime intentionally means abusing their abilities, while someone who commits a crime due to negligence (*culpa*) means not using their abilities as they should. Negligence crimes in the law are divided into two types, namely negligence crimes that cause consequences and those that do not cause consequences. However, what is subject to criminal sanctions is the act that shows the lack of caution itself. The difference between the two is quite clear: in the crime of negligence that causes consequences, the crime occurs due to negligence, as regulated in Article 359 of the Criminal Code. Meanwhile, in the crime of negligence that does not require consequences, the careless or careless act itself is sufficient to be punished.

This theory focuses on what the perpetrator knows or imagines about the consequences that will occur when he acts. Unlike the theory of knowledge, the theory of will defines "intentionally" as the intention to realize the elements of the crime as formulated in the law. In addition, there are two other terms related to intention, namely "intention" (*voorhomen*) and "with prior planning" (*met voorbedachte rade*). Article 53 of the Criminal Code concerning attempted criminal acts states that a person can be punished for attempted crime if his intention is proven from the beginning of the implementation, and the implementation is stopped not because of his own will.

c. No Reason for Elimination of Criminal Burden

In criminal law, a person can be subject to sanctions if there are no factors that can eliminate his criminal responsibility. The reasons for the elimination of criminal liability are generally related to conditions that can free individuals from legal responsibility, such as self-defense (*noodweer*), forced circumstances (*overmacht*), unintentional, or inability to be responsible. If no valid reason is found to remove the criminal penalty, then the perpetrator must still be held accountable for his actions and can be punished according to the applicable rules. This confirms that criminal law aims to enforce accountability for a crime, unless there is a reason that can free someone from punishment.

**c) Criminal Elements**

In Criminal Law, the elements of a crime can be categorized into 2 things, namely Subjective and Objective elements. In its meaning, subjective elements are elements related to actions taken by the perpetrator while objective elements are actions taken by the perpetrator and are contrary to applicable regulations. These elements can be categorized into:

a. Subjective Elements

Subjective elements in criminal acts refer to the psychological aspect or mental condition of the perpetrator when committing an unlawful act. This element plays a role in determining whether a person can be held criminally responsible for their actions. Some subjective elements in criminal acts include:

1. Intention (*dolus*) namely the perpetrator has the will to commit a criminal act and is aware of the consequences that may arise.
2. Negligence (*culpa*) namely the perpetrator does not intend to commit a crime, but his actions occur due to negligence, carelessness, or lack of caution.
3. Intent (*opzet*) namely Acts carried out consciously to achieve a certain goal, either intentionally wanting certain consequences or accepting the possibility of consequences that arise.
4. Motive is the driving factor that underlies a person in committing a crime. Although not always the main element, motive can influence the verdict.
5. Criminal Responsibility is a person can be held legally responsible if they are aware of their actions and are able to control themselves.

b. Objective Elements

Objective elements in a crime refer to the real or physical aspects of an unlawful act. This element focuses on the action taken, the consequences caused, and the relationship between the act and its impact. Some objective elements in a crime include:

- a. Act (*Actus Reus*) namely an act or omission that is contrary to criminal law. This act can be an active act (doing something prohibited) or passive (ignoring legal obligations).
- b. Consequences namely the consequences that arise as a result of the act, such as physical, material, or psychological losses for the victim. In some cases, these consequences become a crucial element in determining the existence of a crime.
- c. Causal Relationship namely the relationship between the perpetrator's actions and the consequences that occur. In other words, the perpetrator's actions must be the direct cause of the impact that arises.
- d. Object Violated namely the Party or legal interest that is harmed by the perpetrator's actions, for example life, property, honor, or public order.
- e. Circumstances Accompanying the Act, namely supporting factors that explain the objective elements in a criminal act, such as location, time, or certain conditions that are requirements in formulating a crime.

## METHODOLOGY

In this research method, the normative research method is utilized, namely focusing on the in-depth study of the decisions in the district court, especially decisions related to Corruption Crimes. In this study, the author also utilizes qualitative data collection techniques, namely the technique used to collect data in this study is through library research, namely by collecting, reading, and tracing a number of books, articles, the internet, legal journals, laws

and regulations or other literature that is relevant to the problem being studied. In this study, there are also several approaches taken, including the statute approach, case approach, and conceptual approach.

## **RESEARCH RESULT DAN DISCUSSION**

### **1. Criminal liability of perpetrators of unlawful acts in corruption cases study of decision number 44/Pid.Sus-TPK/2024/PN Mdn**

In the context of the Criminal Code, negative criminal liability has been regulated in Articles 44, 48, 49, 50 and 51. These provisions explain about negative criminal liability. In general, this criminal liability can be referred to as a condition that must be met by the perpetrator of a crime. Meanwhile, based on the idea of monodualism (*daad en dader strafrecht*), a fair process in determining criminal liability not only considers the interests of society, but also the interests of the perpetrator himself. This process depends on the fulfillment of the terms and conditions that allow the perpetrator to be blamed, thus making him worthy of being sentenced to criminal punishment.

Corruption is a problem that often occurs in society. This crime is usually carried out by people who have strong and sovereign power (Sovereignty) in a government. Of course, this phenomenon is something that the government must pay attention to in overcoming or preventing this crime from developing further. In its general sense, Corruption is a term for Extraordinary Crime or a crime committed systematically by someone who has the power and authority to carry out an action that has a major impact on the state, especially the losses borne by the state. To deal with this phenomenon, of course, the government must have a basis for overcoming or preventing this crime from occurring.

In Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning Criminal Acts of Corruption or hereinafter referred to as the PTK Law (Corruption Crime Law) has clearly regulated the accountability for criminal acts of corruption. However, in determining this accountability, law enforcers must pay attention in detail to the elements contained in the crime. The elements in the Corruption Law will determine whether the person or legal entity involved in the corruption crime is proven to have committed corruption or not. With caution in examining or exploring these elements, it also becomes a basis for law enforcers to impose legal responsibility on perpetrators of corruption crimes with the aim that the perpetrators of corruption crimes can be caught and cannot escape from the clutches of the law. The form of criminal responsibility in corruption crimes in general is the imposition of criminal sentences, fines and/or confiscation of assets belonging to defendants in corruption crimes who have been proven legally and convincingly to have committed an act of corruption. Basically, corruption crimes are special crimes, meaning that this crime is different from other general crimes. This crime can also be referred to as (extra ordinary crimes) because it has a systematic, endemic nature that has a broad impact (systematic and widespread), where this crime not only has an impact on state losses. However, it also has an impact on violations of human rights such as economic and social rights. With the impacts caused, this crime requires a comprehensive extra ordinary measures

approach or efforts to eradicate corruption in a comprehensive manner with the aim that state institutions have the authority to eradicate corruption.

In the case of corruption of the Village Fund budget and Village Fund Allocation of Huta Baru Sil, Dolok District, North Padang Lawas Regency by the defendant Khoirul Efendi Siregar as the Head of Huta Baru Sil Village is one of the corruption crimes that has been decided in court, namely the Medan District Court in its decision number 44 / Pid.Sus-TPK / 2024 / PN Mdn. In this case, the public prosecutor charged the defendant with the Primary Charge, namely Article 3 Jo. Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. The indictment explains that the actions carried out by the defendant are actions that abuse the authority, opportunity or means available to him because of the position or position carried out by the defendant, the defendant's actions have benefited the defendant, namely a profit of Rp. 585,734,029.00 (five hundred eighty five seven hundred thirty four thousand twenty nine rupiah) or at least with the amount that has been described by the Public Prosecutor in his Indictment. In the description of the indictment, the judge must pay attention to all elements contained in the indictment, to determine whether the defendant has actually committed a criminal act of corruption or not.

In this Criminal Act, the Public Prosecutor has also clearly described all the facts that explain the process of the occurrence of the criminal act of corruption and also confirmed that the defendant has indeed been proven legally and convincingly to have committed a criminal act of corruption as in the indictment of the public prosecutor. Furthermore, the prosecutor also includes several pieces of evidence and evidence in the form of evidence of the defendant's involvement in the case and also presents witnesses who further strengthen the indictment that has been prepared by the public prosecutor.

In this case, the judge as a law enforcer also has an obligation to pay attention to all forms of evidence and evidence submitted by the public prosecutor, witness statements, defendant statements and also trial facts that are revealed during the trial. This aims to make the crime open in its entirety and make it easier for the judge to determine whether the defendant has actually committed a corruption crime that is detrimental to the state or not. In the explanation of Article 32 Paragraph (1) of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption, it is stated that what is meant by state losses that have clearly occurred is state losses that can be calculated based on the findings of the authorized agency or appointed public accountant.

The Judge also pays attention to all elements contained in the crime committed by the defendant, namely

- a. Every person
- b. With the aim of enriching themselves, others or corporations;
- c. Abusing the authority, opportunity or means available to him because of his position or position;

d. Can harm state finances or the state economy.

By paying attention to Article 3 Jo. Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, supported by Article 184 Paragraph (1) of the Criminal Procedure Code which regulates valid evidence in criminal procedure law in the form of:

- a) Witness Statement;
- b) Expert Statement;
- c) Letter;
- d) Instructions;
- e) Defendant's Statement.

Based on the above Elements that have been legally fulfilled. Therefore, the Judge concludes that the Defendant has been legally and convincingly proven to have committed a crime as charged in the Primary Indictment and because the Primary Indictment has been proven, further Indictments do not need to be considered anymore. Therefore, the Panel of Judges sentenced the Defendant KHOIRUL EFENDI SIREGAR to a prison sentence of 5 (five) years and a fine of Rp200,000,000.00 (two hundred million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 2 (two) months. The Panel of Judges also imposed an additional penalty on the Defendant KHOIRUL EFENDI SIREGAR to pay compensation of Rp585,734,029.00 (five hundred eighty-five million seven hundred thirty-four thousand twenty-nine rupiah) and if the convict does not pay the compensation within 1 (one) month after the Court's Decision has permanent legal force, his property will be confiscated by the prosecutor and auctioned to cover the compensation, in the event that the convict does not have sufficient property to pay the compensation, the convict will be imprisoned for 2 (two) years.

## **2. Forms of Unlawful Acts in Corruption Studies of Decision Number 44 / Pid.Sus-TPK / 2024 / PN Mdn**

In the Interpretation of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Corruption, the Definition of Unlawful Acts has been expanded. This law explains that corruption is not only a formal crime but also a material crime. It is also explained that an act that can be categorized as a crime that is categorized as a formal crime must fulfill the elements contained in the crime without having to cause detrimental consequences. So if it is connected to corruption, the actions taken "can" be categorized as causing state losses, then the perpetrator can be punished. If the act has harmed the state, the perpetrator has an obligation to return the loss to the state without eliminating the unlawful act committed by the defendant. In the case of corruption in the Village Fund Budget and Village Fund Allocation of Huta Baru Sil, Dolok District, North Padang Lawas Regency by the defendant Khoirul Efendi Siregar as the Head of Huta Baru Sil Village Form of Unlawful Acts in Corruption Crimes Study of Decision Number 44 / Pid.Sus-TPK / 2024 / PN Mdn:

**a. Enriching Oneself, Another Person or a Corporation**

In its meaning, what is meant by "enriching" is an act carried out to become even richer and this act can be carried out in various ways. If we pay attention to the formulation of Article 2 paragraph (1) of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, then the element of carrying out an act of enriching oneself or another person or a corporation must be interpreted alternatively, which can include three possibilities, namely enriching oneself, or enriching another person, or enriching a corporation. Based on the Supreme Court Jurisprudence, where state losses of more than 100 (one hundred) million are considered to have enriched oneself or others and are subject to Article 2 of Law of the Republic of Indonesia Number 31 of 1999 as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (vide Supreme Court Jurisprudence Number 1038 K/Pid.Sus/2015, and PERMA Number 1 of 2020 concerning Guidelines for Sentencing Article 2 and Article 3 of the Law on the Eradication of Criminal Acts of Corruption, SEMA No. 3 of 2018 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2018 as a Guideline for the Implementation of Duties for the Court) it is stated that the value of state losses of more than IDR 200,000,000.00 (two hundred million rupiah) can be applied to Article 2 Paragraph (1) of the UUPTPK in casu is considered to have enriched oneself, others or corporations. Furthermore, the element of enriching oneself, another person or a corporation legally must be proven according to the law enriching oneself, another person or a corporation must be done unlawfully that the unlawful act committed by the defendant above has enriched the defendant in the amount of Rp585,734,029.00 (five hundred eighty-five million seven hundred thirty-four thousand twenty-nine rupiah), as stated in the Report on the Results of Calculation of State Financial Losses from Misuse of Village Funds in Huta Baru Sil Village, Dolok District, 2020-2022, Number: 700/284 / IT / IP.Sus / 2023 dated July 21, 2023.

**b. Element Can Harm State Finances or the State Economy**

Article 2 paragraph (1) explains that the use of the phrase "can" before "harm state finances or the state economy" indicates that the crime of corruption is included in the category of formal crimes. This means that to prove the existence of a crime of corruption, it is sufficient to fulfill the elements that have been determined in the rules of law without having to prove the consequences that arise. The definition of state losses is also explained in the Republic of Indonesia Law Number 1 of 2004 concerning State Treasury. In the law, state or regional losses are defined as a shortage of money, securities, or goods in a definite and real amount due to unlawful acts, either intentionally or due to negligence.

In general, state finances include all state assets in various forms, both separated and undivided, including all parts of state assets and rights and obligations arising from:

Being under the authority, management, and responsibility of state institution officials, both at the central and regional levels. Being under the management and responsibility of State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), foundations with legal status, and companies involving third-party capital based on agreements with the state.

Based on the provisions of Article 1 number 1 of Law Number 17 of 2003 concerning State Finance, and Article 1 number 22 of Law Number 1 of 2004 concerning State Treasury, the Panel of Judges is of the opinion that "state financial loss" refers to the reduction of state financial rights or the increase of state financial obligations due to unlawful acts by the perpetrator.

The Constitutional Court (MK) Decision Number 25/PUU-XIV/2016 stated that the phrase "can" in Article 2 Paragraph (1) and Article 3 of Law Number 31 of 1999 juncto Law Number 20 of 2001 concerning the Eradication of Corruption is contrary to the 1945 Constitution and does not have binding legal force. The Constitutional Court emphasized that the element of "detrimental to state finances" can no longer be interpreted as a potential loss, but must be a loss that has actually occurred (actual loss) in order to be used as a basis in a corruption case.

In relation to the actions taken by the defendant, it can be concluded that Khoirul Efendi Siregar as the Head of Huta Baru Sil Village has fulfilled the elements of an unlawful act by causing state losses of Rp585,734,029.00 (five hundred eighty-five million seven hundred thirty-four thousand twenty-nine rupiah). The loss is as stated in the Report on the Results of the Calculation of State Financial Losses due to Misuse of Village Funds in Huta Baru Sil Village, Dolok District, Fiscal Year 2020 to 2022, with Number: 700/284/IT/IP.Sus/2023, dated July 21, 2023.

## **CONCLUSIONS AND RECOMMENDATIONS**

Criminal liability is a legal consequence that must be borne by the perpetrator/defendant as a result of the crime he/she committed. In the case of corruption committed by the defendant on behalf of Khoirul Efendi Siregar as the Head of Huta Baru Sil Village which has caused the state a loss of Rp585,734,029.00 (five hundred eighty five million seven hundred thirty four thousand twenty nine rupiah), the Panel of Judges sentenced the Defendant KHOIRUL EFENDI SIREGAR therefore to imprisonment for 5 (five) years and a fine of Rp200,000,000.00 (two hundred million rupiah) with the provision that if the fine is not paid it will be replaced with imprisonment for 2 (two) months. The Panel of Judges also imposed an additional penalty on the Defendant KHOIRUL EFENDI SIREGAR to pay compensation of Rp585,734,029.00 (five hundred eighty-five million seven hundred thirty-four thousand twenty-nine rupiah) and if the convict does not pay the compensation within 1 (one) month after the Court's Decision has permanent legal force, his assets will be confiscated by the prosecutor and auctioned to cover the compensation, in the event that the convict does not have sufficient assets to pay the compensation, the convict will be imprisoned for 2 (two) years, as a form of criminal responsibility carried out by the defendant.

The unlawful act committed by the defendant is detrimental to the state, namely with a state loss of Rp585,734,029.00 (five hundred eighty-five million seven hundred thirty-four thousand twenty-nine rupiah), as stated in the Report on the Results of Calculation of State Financial Losses from Misuse of Village Funds in Huta Baru Sil Village, Dolok Ta District. 2020 to 2022 Number: 700/284 /IT/IP.Sus/2023 dated July 21, 2023.

### **ADVANCED RESEARCH**

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

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