

## Confidential Property of Corruption Convictions According to Law Number 20 of 2001 Concerning the Eradication of Criminal Acts of Corruption



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**ABSTRACT:** The article entitled Confiscation of Assets of Corruption Convicts According to Law Number 20 of 2001 concerning the Eradication of Corruption Crimes with a problem formulation and research objectives: How to Confiscate the Assets of Corruption Convicts According to Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The approach method used is normative juridical research, and uses a statutory approach and a conceptual approach. Produce conclusions: In practice, the execution of decisions is often difficult for prosecutors to confiscate the assets of corruption convicts and the payment of replacement money as intended in the Anti-Corruption Eradication Law, so that there are often arrears in payments in efforts to recover State losses. One reason is that the court decisions are not detailed. The Supreme Court (MA) in many decisions only stated "imposing compensation in the amount of..." without including the duration (term) of subsidiary imprisonment as a way to force the defendant to return the money to the State.

**KEYWORDS:** treasure; convicted of corruption; foreclosure

### I. INTRODUCTION

Pancasila has extraordinary moral views contained in each of its precepts. Making the existence of Pancasila the nation's way of life and making Pancasila an ideology of resistance to all forms of criminal acts, including corruption which has become so acute, is a concrete attitude and step that must be taken by all elements of the nation. All implementation of the nation's ideals must be based on belief in the Almighty God who has a high sense of humanity, namely justice and civility by maintaining unity and solid integrity based on deliberation for the realization of comprehensive social justice for the nation and state. As social creatures who live side by side with one another, humans always live in groups as a unit that needs each other. In social life, people often do not realize that there is a very complex social system that involves several aspects, namely politics, economics and socio-culture.<sup>1</sup>

The development of social life greatly influences the emergence of various kinds of crimes. It cannot be denied that currently there are many various crimes as a result of society's social life. One of these crimes is known as the crime of corruption, which seeks to prevent and eradicate criminal acts of corruption through a judge's decision.

Corruption is categorized as an extraordinary criminal act (extra ordinary crime), not forgetting that eradicating it also requires an extraordinary solution (extra ordinary measure), in that many problems arise related to the judge's decision regarding additional punishment or replacement money.<sup>2</sup> The executorial power of the judge's decision by the prosecutor who is the executor of the judge's decision, often with the judge's decision having permanent legal force, actually often fails to execute and of course fails to provide a deterrent effect to corruptors as well as failing to return the state money that has been corrupted.

The criminal act of corruption is a fraudulent act, namely misappropriating or embezzling state finances which is intended to enrich oneself which can be detrimental to the state. Generally, criminal acts of corruption are carried out in secret, involving elements of reciprocal obligations and benefits. These obligations and benefits are not always in the form of money.<sup>3</sup>

The many ways to hide assets used by perpetrators of criminal acts of corruption make it difficult for prosecutors to search for and confiscate the assets of perpetrators of criminal acts of corruption. There is a growing idea that preventing perpetrators of criminal acts of corruption from converting ill-gotten money from corruption crimes into halal and confiscating assets suspected or found

<sup>1</sup> Satjipto Rahardjo, 2006, *Ilmu Hukum*, Bandung: Citra Aditya Bhakti, p. 29.

<sup>2</sup> Mungki Hadipratikto, *Artikel Eksekusi Putusan Pidana Uang Pengganti Dalam Perkara Tindak Pidana Korupsi*, portalgaruda.org/article.php?article=33512&val=2342, access 25 Mei 2019.

<sup>3</sup> Aziz Syamsuddin, 2001, *Tindak Pidana Khusus*, Jakarta: Sinar Grafika, p. 15.

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to be the proceeds of corruption are effective steps in efforts to eradicate criminal acts of corruption. To pursue wealth assets from the proceeds of corruption and/or money laundering, you must use the regulations governing the confiscation of the assets themselves, whether criminal or civil, as well as extraordinary procedural laws in the planned revision of the Corruption and Criminal Offenses Law. Money Laundering, because the crimes faced by prosecutors and other law enforcers are extraordinary crimes. Returning "stolen" state-owned assets (stolen asset recovery) originating from corruption crimes is not very easy to implement. The large amount of assets that perpetrators of criminal acts of corruption have to save or carry out money laundering activities (money laundering) is a classic problem whose existence is very difficult to trace, and will be related to banking problems and it is not uncommon to find the fact that theft of public money is related to abuse of position or environmental influence of perpetrators of corruption crimes.

Confiscation of assets to recover state losses is an important issue because it involves people who currently serve or have served in a country. Confiscating the assets of perpetrators of corruption crimes is one of the anticipatory efforts that is expected to save and prevent the transfer or loss of assets belonging to the perpetrators of corruption. Later, the confiscated assets will be decided in court which will then be auctioned to compensate for state financial losses caused by the actions. corruption. The absence of Standard Operating Procedures regarding procedures for confiscating corruption assets makes it difficult for prosecutors to confiscate objects deemed to be related to corruption crimes, making investigators sometimes confiscate objects that are not necessarily related. With a criminal act being investigated, this is because the perpetrators of corruption crimes have many ways of hiding assets obtained from the proceeds of their corruption crimes. Investigators should first make an inventory of the objects they are looking for and how they are related to the crime being investigated. , in some cases corruption results in resistance from parties who feel disadvantaged. They think that prosecutors do not have the right to confiscate assets that do not necessarily come from criminal acts that are detrimental to the state.

Property rights resulting from crimes committed by corruptors have often been transferred to third parties, to obscure the origins of the wealth. Thus, a large amount of state assets resulting from criminal acts of corruption are embezzled so that they are not traced by law enforcement officials. Of course, by looking at the current conditions in Indonesia, it can be felt that the economy has not changed as we expected.

This gives an indication that the eradication of criminal acts of corruption has not yet reached its maximum point in eradicating criminal acts of corruption. In this case, there are many modes of embezzlement of state assets resulting from criminal acts of corruption that cannot be addressed using existing legal mechanisms. Bearing in mind that the legal system is not flexible and always requires changes and updates according to current circumstances.

There is an irony when perpetrators of criminal acts of corruption enjoy the proceeds of their crimes for personal interests or even common interests with other parties, but legally they cannot be touched by existing legal instruments. Legally, there are several methods that can be used by corruptors to embezzle state assets, namely through civil legal instruments, namely; sale and purchase agreements, grants, exchanges, and others. In this case, the civil legal instrument that is often used to transfer rights is through a sale and purchase agreement, although it also does not rule out the use of other civil legal instruments such as grants, exchanges, or other legal actions with the aim of

Corruption crimes receive more attention than other criminal acts in various countries. This is because criminal acts of corruption can have widespread negative impacts in a country. The impact that can be caused by criminal acts of corruption concerns various aspects of life.

Moreover, many people convicted of corruption cases choose a substitute punishment in the form of physical imprisonment rather than having to pay compensation. Replacement money is only an additional penalty, but it is very unwise to allow the convict not to pay replacement money as a way to recover state losses. It is becoming increasingly evident that it is impossible to return the money lost to the state, and this is the entry point for reforming criminal law, especially corruption cases.

Empirically, corruption in Indonesia continues to increase from time to time. The wide scope of corruption that penetrates all people's lives, causes state financial losses because corruption is now systematic and organized. The uncontrolled increase in criminal acts of corruption will bring disaster not only to the life of the national economy, but also to the life of the nation and state.<sup>4</sup>

The current condition of Indonesia is very worrying, because corruption has attacked the world of politics and the nation's economy. Political corruption is carried out by people or institutions who have political power or by conglomerates who carry out collusive transactional relationships with power holders.

The magnitude of state financial losses caused by corruption is very disproportionate to the magnitude of returns to state financial losses due to corruption. Restitution of state financial losses must be carried out and according to law so that it can be achieved as optimally as possible. In principle, state rights must return to the state for the welfare of the people. In practice, one of the facts is

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<sup>4</sup> Indriyanto Seno Adji, 2001, *Korupsi dan Hukum Pidana*, Jakarta: Kantor Pengacara & Konsultasi Hukum "Prof. Oemar Seno Adji, SH & Rekan", p. 10.

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that the recovery rate for state financial losses due to corruption is lower than the amount corrupted. Execution is basically one of the prosecutor's powers regulated by law to carry out the judge's decision. A judge's decision that can be executed is only a judge's decision that has permanent legal force (*in kracht van gewijsde*).

Returning the State's financial losses has other goals and hopes related to the State's inability to finance various aspects that are urgently needed.<sup>5</sup>

This is a serious problem where there are irregularities, corruption continues, prevention also continues, law enforcement never stops, but state losses are still irreversible and can occur repeatedly and cannot be easily returned, whereas in the execution of criminal law there is an additional crime that stated in the decision of the Corruption Court judge and applied to corruptors, it also still provides a loophole where it is not easy to recover state losses due to corruption.

The implementation of returning state financial losses resulting from criminal acts of corruption cannot just be done immediately. Apart from waiting for the payment of replacement money from convicts in corruption cases, which takes a long time, the return of replacement money to the state treasury cannot be done immediately, let alone additional penalties in the form of confiscation of assets. This is due to the fact that bureaucratic procedures must be followed, so it takes time to return state financial losses to the state treasury so that they can be immediately used for the welfare of the people. This is what also disturbs my conscience to improve criminal law through reform of additional criminal threats which are very weak in implementation.

Various parties who are corrupt are aware that the criminal threat in the provisions of Law Number 31 of 1999 against corruptors can take the form of imprisonment and also a fine. In an effort to recover as much as possible state finances corrupted by corruptors, Law Number 31 of 1999 also puts forward the concept of "efforts to recover state financial losses" namely in the provisions of Article 18 as one of the additional penalties.

Repressive efforts against criminal acts of corruption are currently not only focused on arresting and punishing the perpetrators of criminal acts of corruption with imprisonment and imprisonment, but also through efforts to recover financial and economic losses to the state by confiscating and then following up. by imposing additional punishment in the form of confiscation of the defendant's assets through a court decision. In fact, there are also other alternatives which can be taken through civil law by filing a lawsuit against the assets of perpetrators of criminal acts of corruption who have fled, died or defendants who have been acquitted in cases of criminal acts of corruption but there are strong indications that they have caused state losses. The problem in this paper is to find out the mechanism for confiscating the assets of perpetrators of criminal acts of corruption and finding out whether the confiscation of assets of corruptors that were not obtained from criminal acts of corruption can also be carried out.

## II. PROBLEM FORMULATION

Based on the background explanation above, the problem formulation is: How are the assets of those convicted of corruption confiscated according to Law Number 20 of 2001 concerning the Eradication of Corruption Crimes?

## III. DISCUSSION

As a criminal act that permeates all levels of society, corruption has many consequences for the survival of society and the government. There are several opinions that mention several consequences that can be caused by criminal acts of corruption, namely according to CIBA regarding the impact of budget irregularities, namely:

1. Declining quality of public services;
2. The basic rights of citizens are taken away;
3. Damage to the principles of the state financial management system;
4. The existence of a puppet government;
5. Increasing social inequality;
6. Loss of investor confidence;
7. There is degradation of morals and work ethic.<sup>6</sup>

According to Evi Hartanti, the consequences that criminal acts of corruption can cause include:

1. Reduced trust in the government;
2. Reduced government authority in society;
3. Shrinking state income;
4. Fragility of state security and resilience;
5. Personal mental damage;
6. Laws are no longer respected.<sup>7</sup>

<sup>5</sup> Aga Wiranata, 2014, KENDALA JAKSA DALAM EKSEKUSI PIDANA TAMBAHAN UANG PENGGANTI PADA PERKARA TINDAK PIDANA KORUPSI (Studi Kasus Korupsi Di Kejaksaan Tinggi Jawa-Timur). *Brawijaya Law Student Journal*, 1(2).

<sup>6</sup> Surachmin dan Suhandi Cahaya, *Strategi & Teknik Korupsi, Mengetahui Untuk Mencegah*, Jakarta: Sinar Grafika, p. 83-84.

<sup>7</sup> *ibid.* p. 85-86.

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Juniadi Soewartojo believes that the impact of corruption on the country's economy and national development is generally seen as negative. Corruption can lead to waste of state finances/state assets. Corruption can also hamper the healthy growth and development of entrepreneurs and in addition professional staff are lacking or not utilized in professional matters for economic growth.<sup>8</sup>

The consequences of corruption are very broad, not only in terms of the principles of a nation's life, but can also cause losses to the state and society. Concerns about the impacts caused by corruption are very genuine because corruption has spread to all levels of society, from the lower middle class to the upper middle class, including government officials (state officials) who should be role models for society. Bung Hatta also stated the same thing, that corruption could become a culture if it is allowed to continue, so serious handling needs to be improved.<sup>9</sup>

In Law Number 17 of 2003 concerning State Finances, the definition of State Finances is defined as all the rights and obligations of the State which can be valued in money, as well as everything in the form of money or goods which can be made into state property in connection with the implementation of these rights and obligations.<sup>10</sup>

In a narrow sense, state finances includes every legal entity that has the authority to manage and account for it.

The formulation of state finances uses several approaches, namely:

1. Approach from the object side

State finances include all rights and obligations that can be valued in money, including various policies and activities carried out in the fiscal, monetary and/or management of separate state assets. Apart from that, everything can be in the form of money or goods that can be made property of the state in connection with the implementation of these rights and obligations.

2. Approach from the subject's side

State finances include the state and/or central government, regional governments, state or regional companies, and other bodies that are related to state finances.

3. Approach from the process side

The entire series of activities related to the management of the above objects, starting from the policy formulation process and decision making to accountability.

4. Approach from the goal side

State finances include policies, activities and legal relations related to the ownership and/or control of objects as mentioned above in the context of administering state government.<sup>11</sup>

According to M. Ichwan, state finances are "quantitative activity plans (with figures expressed in currency amounts), which will be carried out for a data period, usually 1 year."

Geodhart defines state finances as all laws that are established periodically which give the government the power to carry out expenditures for a certain period and indicate the financing tools needed to cover these expenditures. The elements of state finance explained by Geodhart include:

- a. Periodic
- b. The government as budget executor
- c. Budget implementation includes two authorities, namely expenditure authority and authority to explore sources of financing to cover related expenses, and
- d. The form of the state budget is in the form of a law.<sup>12</sup>

The scope of state finance includes:

  - a. The state's right to collect taxes, issue and circulate money, and make loans;
  - b. The state's obligation to carry out public government service tasks and pay third party bills;
  - c. State revenue;
  - d. State expenditure
  - e. Regional revenue;
  - f. Regional expenditure;
  - g. State assets/regional assets managed by themselves or by other parties in the form of money, securities, receivables, goods, and other rights that can be valued in money, including assets separated from state companies/regional companies;
  - h. Wealth of other parties controlled by the government in the context of carrying out government duties and/or public interests;
  - i. Wealth of other parties obtained by using facilities provided by the government; And

<sup>8</sup> *ibid.*, p. 86.

<sup>9</sup> *ibid.*, p. 88.

<sup>10</sup> Jawade Hafidz Arsyad, 2013, *Korupsi dalam Perspektif HAN (Hukum Administrasi Negara)*, Jakarta: Sinar Grafika, p. 164-165.

<sup>11</sup> *ibid.*, p. 164.

<sup>12</sup> *ibid.*, p. 165.

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j. The wealth of other parties as referred to includes wealth managed by other people or bodies based on government policy, foundations within state ministries/institutions, or state/regional companies.<sup>13</sup>

In the explanation of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, what is meant by state finances is all state assets in whatever form, separated or not separated, including all parts of state assets and all rights and obligations arising from :

- a. Be under the control, management and accountability of state agency officials, both at the central and regional levels;
- b. It is under the control, management and accountability of State/Regional Owned Enterprises (BUMN/BUMD), foundations, legal entities and companies that include state capital, or companies that include third party capital based on an agreement with the State.

By knowing some of the definitions of state finances, it can be concluded that state finances are not just limited to money, but also include all the rights and obligations of the state that can be valued in money, as well as everything that can be made into state property, whether under the control of the government or the control of other parties. others outside the government.

The definition of state finances is not only in the form of money but all forms in any form that can be measured by the value of money. By referring to the details of the article and the definition of limits on losses, as well as state finances above, the meaning of state financial losses can be formulated as a reduction in state assets caused by misuse of authority or opportunities or means available to a person because of his position and position.<sup>14</sup>

The definition of state financial loss can be seen in Law Number 1 of 2004 concerning State Treasury, Article 1 number (22) "state/regional financial loss is a shortage of money, securities and goods, which are real and certain in amount as a result of an unlawful act or intentionally or negligently." Therefore to The state's financial losses must be certain, not guessing and the state's financial losses must be calculated.<sup>15</sup>

State financial losses due to corruption can be recovered by imposing additional criminal sanctions in the form of returning state financial losses. Recovering state financial losses is an important goal of the government's efforts to eradicate criminal acts of corruption. With the threat of criminal sanctions in the form of returning state financial losses, it will be easier to recover state financial losses due to corruption.

In essence, returning state financial losses is intended to recover the amount of money that has been confiscated by perpetrators of criminal acts of corruption. Based on the provisions of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, the threat of additional criminal sanctions in the form of returning state financial losses has been included in article 18. From a legal juridical perspective, updates to the provisions of Law Number 31 of 1999 in conjunction with Law Law Number 20 of 2001 reflects the government's actions in efforts to eradicate the development of criminal acts of corruption.

In addition to updating the main legal basis for eradicating criminal acts of corruption, the government has also established several regulations as companions to the Corruption Crime Law, namely:

- a. TAP MPR:
  1. MPR TAP Number: XI/MPR/1998 concerning the Administration of a State that is Clean and Free of Corruption, Collusion and Nepotism.
- b. Constitution:
  1. Law Number 30 of 2002 concerning the Corruption Eradication Commission.
  2. Law Number 31 of 1999 concerning Eradication of Corruption Crimes Jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes.
  3. Law Number 46 of 2009 concerning Corruption Crime Courts.
  4. Law Number 28 of 1999 concerning the Administration of a State that is Clean and Free from Corruption, Collusion and Nepotism.
  5. Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.
  6. Law Number 13 of 2006 concerning Protection of Witnesses and Victims.
  7. Law Number 7 of 2006 concerning Ratification of the 2003 United Nations Convention Against Corruption (2003 United Nations Anti-Corruption Convention).

The number of laws and regulations related to Corruption Crimes reflects how serious corruption cases are in Indonesia. Eradicating criminal acts of corruption is the government's main agenda besides other cases.

In line with this, in 1997 the Financial and Development Audit Agency (BPKP) in the Corruption Prevention and Eradication Workshop in Indonesia formulated 3 strategies in an effort to eradicate criminal acts of corruption nationally, namely:

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<sup>13</sup> Ahmad, 2013, *Pengertian dan Ruang Lingkup Keuangan Negara*, <http://rakaraki.blogspot.com/2014/04/pengertian-dan-ruang-lingkup-keuangan.html>, access 25 Mei 2019.

<sup>14</sup> *ibid.*, p. 164.

<sup>15</sup> Musri Nauli, *Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi*, <http://hukum.kompasiana.com/2014/10/08/kerugian-negara-dalam-tindak-pidana-korupsi2013-> access 25 Mei 2019.



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- a. A persuasive strategy is an effort to eliminate the causes of corruption, eliminate corruption and prevent corruption as much as possible.
- b. The detective strategy is an effort to display information if corruption has occurred and can be identified as much as possible in the shortest possible time.
- c. A repressive strategy is an effort to as much as possible process corruption that has been identified according to legal provisions quickly, precisely, and with a high level of legal certainty, including the process of investigation, investigation, prosecution, and examination at trial/court decisions.<sup>16</sup>

The government has made every effort to prevent and eradicate criminal acts of corruption, both by establishing and updating laws from all aspects, collaborating and coordinating with other state institutions to jointly eradicate corruption which has a broad impact on public security and peace.

As an effort by the government to realize its seriousness in efforts to eradicate criminal acts of corruption, various policies have been issued. One of them is Presidential Instruction Number 5 of 2004 concerning the Acceleration of Corruption Eradication, which specifically instructed the Attorney General and Chief of Police:

1. Optimize investigation/prosecution efforts for criminal acts of corruption to punish perpetrators and save state money.
2. Prevent and provide strict sanctions against abuse of authority carried out by prosecutors (public prosecutors) members of the National Police in the context of law enforcement.
3. Increase cooperation between the Prosecutor's Office and the Indonesian National Police, apart from BPKP, PPATK, and State Institutions related to law enforcement efforts and recovering state financial losses resulting from criminal acts of corruption.

The next policy taken by the government was to establish the National Action Plan for Eradicating Corruption (RAN-PK) 2004-2009, bearing in mind that handling corruption requires a systematic handling approach, namely through prevention and action steps. Preventive measures in RAN-PK 2004-2009 prioritized on:

1. Redesign public services, especially in areas that are directly related to daily service activities for the community.
2. Strengthen transparency, supervision and sanctions on government activities related to the economy and human resources.
3. Increase the empowerment of supporting tools in preventing corruption.

Law enforcement in dealing with criminal acts of corruption requires cooperation and coordination between law enforcement officials in order to prevent and eradicate corruption as much as possible which is increasingly developing in society. Having a clear legal umbrella to resolve corruption cases is a good first step in enforcing the law related to criminal acts of corruption.

All efforts made by the government to eradicate corruption, both in terms of updating legislation and other policies, are very appropriate actions because the development of corruption is very rapid and can now even be categorized as an extra ordinary crime which requires extraordinary handling.

Based on several policies issued by the government mentioned above, it can be seen that efforts to eradicate corruption have become the government's priority. Apart from that, returning state financial losses due to criminal acts of corruption is a goal that the government wants to achieve because state financial losses due to criminal acts of corruption are very large.

Based on the theory of the working of law put forward by Robert B. Seidman, to see the working of law in society it can be seen from 3 elements, namely: regulatory institutions, regulatory implementing institutions, and role stakeholders. The proposition put forward by Robert B. Seidman, if implemented to see the operation of the law in criminal acts of corruption, is to see whether the current laws and regulations can be a means of eradicating criminal acts of corruption, including the criminal threats contained therein. Because society is a dynamic legal subject, there must be legal reform that leads to a better direction and increases the role of implementing laws and regulations in implementing existing legal rules.<sup>17</sup>

As a basis for criminal impositions related to the return of state financial losses, it is stated in the provisions of CHAPTER II of Law Number 31 of 1999 Jo. Law Number 20 of 2001. In the provisions of Article 4 above it is stated that "Recovery of losses to state finances or the state economy does not eliminate the punishment of perpetrators of criminal acts". So, in other words, if a person who is suspected of committing a criminal act of corruption which results in harm to the state's finances returns all the losses he caused, the punishment cannot be erased, but it can only reduce the punishment. This is in accordance with the reward theory (dessert theory) which explains that the actions caused by a perpetrator must be punished according to his actions.

Apart from the prison sentence that can be imposed on the defendant, an additional penalty is in the form of returning state financial losses through the payment of replacement money which has been regulated under the provisions of Article 18 of Law Number 31 of 1999 Jo. Law Number 20 of 2001.

Article 18:

- (1). Apart from additional penalties as intended in the Criminal Code, additional penalties are:

<sup>16</sup> Chaerudin, dkk, 2009, *Strategi Pencegahan & Penegakan Hukum Tindak Pidana Korupsi*, Bandung: Refika Aditama, p. 12-13.

<sup>17</sup> Achmad Ali, 2009, *Menguak Teory Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence)*, Jakarta: Prenada Media Group, p. 47.

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- a. confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption were committed, as well as goods that replace these goods;
  - b. payment of compensation money in an amount equal as much as possible to the assets obtained from the criminal act of corruption.
  - c. Closure of all or part of the company for a maximum period of 1 (one) year;
  - d. Revocation of all or part of certain rights or elimination of all or part of certain benefits that have been or can be provided by the government to the convict.
- (2). If the convict does not pay the replacement money as intended in paragraph (1) letter b within 1 (one) month after the court decision which has permanent legal force, then his property can be confiscated by the prosecutor and auctioned to cover the replacement money.
- (3). In the event that the convict does not have sufficient assets to pay replacement money as intended in paragraph (1) letter b, then he will be punished with imprisonment whose duration does not exceed the maximum threat of the main sentence in accordance with the provisions of this Law and the length of the sentence has been determined in court ruling.

Based on the provisions of Article 18, it reflects the existence of legal certainty regarding the imposition of criminal sanctions against the defendant criminal acts of corruption. Not only can prison sentences and fines be imposed on defendants, but the important essence in implementing these criminal sanctions is the return of state financial losses resulting from criminal acts of corruption.

The imposition of additional criminal sanctions in the form of a criminal return of state financial losses with replacement money is an implementation of the theory of punishment, which is more directed towards a combined theory which seeks to combine the purpose of punishment to repay the perpetrator's actions with imprisonment (deprivation of freedom) and is also intended so that the perpetrator can be reformed and later be able to live. return to society. With very good norms, in reality the country still suffers from criminal acts of corruption. To provide a deterrent effect and as a preventive measure, imposing the crime of returning state financial losses through replacement money is one appropriate measure. Not only is it in the interests of the country's economy but it also has a deterrent effect on perpetrators of criminal acts of corruption.

## IV. CONCLUSION & SUGGESTION

Based on the discussion above, it can be concluded and recommended:

- Implementation of the confiscation of assets of corruption convicts and payment of replacement money as intended in the Corruption Eradication Law in practice often makes it difficult for prosecutors to execute decisions so that there are often arrears in payments in efforts to recover State losses. One reason is that the court decisions are not detailed. The Supreme Court (MA) in many decisions only stated "imposing compensation in the amount of..." without including the duration (term) of subsidiary imprisonment as a way to force the defendant to return the money to the State.
- So that every time a Corruption Crime case is handled, since the investigation stage, the prosecutor has confiscated the suspect's assets, so that during the prosecution the prosecutor knows that the amount of replacement money that will be demanded is the same as the assets that have been confiscated. And so that the type of additional criminal punishment in the form of returning state finances for the future is formulated into the main type of crime that must be prosecuted by the public prosecutor, and that a decision must also be handed down by the judge for each defendant in a Corruption Crime case in accordance with the essence of Article 18 of Law No. 20 of 2001 concerning Eradication of Corruption Crimes.

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