

Calculation of state financial losses in corruption-criminal investigation (Study in North Sumatera regional police)

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ABSTRACT

Police corruption crime unit, North Sumatera, is tasked with conducting research and investigations into corruption crimes. In carrying out the task is to perform functions: research and investigation of corruption crimes occurring in regional police law area; Filing and completion of the case file under the provisions of the administrative examination and investigation of corruption crimes; and implementation of budget management, as well as investigation management and corruption-criminal investigation. The implementation of the country's loss calculation in corruption crimes in police corruption crime unit, North Sumatera area in the law enforcement efforts and the return of state financial losses due to corruption crimes is carried out by coordinating with the relevant court or based on the audit result of the BPK/BPKP auditor.

Keywords: *State Financial Losses, Investigation, Corruption Crimes.*

Introduction

One of the goals of the establishment of the State is to provide welfare for the people (Ridwan, 2010), increase the dignity and the people's dignity become the whole person. The protection of all nations and blood spilled through a legal device is absolutely realized, there is no meaning that the word protects all nations and spilled blood if there is still suffering perceived by the people in the form of inequality of economic rights that reflects the ignorance for the whole people of Indonesia (Ridwan, 2009), where ignorance is encouraged and created by a system of government that is not socially equitable to all Indonesians because it still allows the practice of government where the power is executed arbitrarily and not on the people.

Corruption has become a global problem between countries or transnational crimes, classified as an extraordinary crime. Eradication of corruption was made a priority for the governance agenda to be addressed as part of restoring the people's and international's trust programs to increase the economic growth of the country, no exception Indonesia. Corruption problems related to the complexity of the problem, among others moral problems/mental attitude, life patterns of necessity and culture and social environment, the needs/demands of economic and socio-economic welfare, economic structure/system, political system/culture, development mechanisms and weak bureaucracy/administrative procedures (surveillance systems) in the field of finance and public Service (Arief, 2003).

In-Law No. 31 of 1999 on corruption eradication, the development of corruption criminal acts can be seen in chapter II between article 2 and article 20. As for the deeds that meet the elements of corruption crimes according to article 2 paragraph (1) of Law No. 31 of 1999 are: (1) every person. (2) against the law; (3) The deeds of enriching themselves or others or corporations; (4) Can harm the country's financial or state economy.

In the explanation of the law mentioned the word can before the adverse financial phrases of the country or the country's economy, according to Sumaryanto (2009) shows that the Corruption criminal act is a delicate formal, which is a criminal act of corruption is enough to fulfill the element of deed that has been formulated, not the emergence of the consequences.

Community development, demanding the need for legal certainty. This requires law enforcement (police, prosecutors, judges, including advocates) to be more professional in carrying out their duties. Law enforcement

officials must realize that Indonesia is a legal state, as stipulated in article 1 paragraph (3) of the Constitution of the Republic of Indonesia year 1945 stating that: Indonesia is a legal country. Police duties and functions are divided into several parts. Police functions in the criminal judiciary provide duties for the police in law enforcement and the framework of law enforcement (Soewadji, 2005). In the criminal law enforcement police have an authorized task to perform research and investigation.

The regional police institutions of North Sumatera have many directorates, among them: Special Criminal Reserse Directorate (Ditreskrimsus). One of the implementing elements of the main task of the implementation is Subdit III/corruption criminal (Tipikor Poldasu), responsible for the research and investigation of corruption crimes. In carrying out such tasks, the Poldasu Tipikor organizes functions: (1) Research and investigation of corruption crimes; (2) Filing and completion of the case file following the provisions of the research and investigation of corruption crimes; and (3) the application of budget management, and the research management and investigation of corruption crimes.

In addition to the increasing number of cases, which is important regarding the state's financial losses from criminal acts of corruption, that the financial losses of the country must be returned or replaced by the corruption actors (asset recovery), and responsibility criminal perpetrators of criminal acts of corruption by the State's financial losses through law enforcement, which will be discussed next how the police corruption of North Sumatera, and the calculation of the state's financial losses in the investigation of corruption crimes that are part of the law enforcement in a state of law

The government system of the Republic of Indonesia affirmed in article 1 paragraph (3) Constitution RI year 1945 one of which is the country of Indonesia is the country of law. This principle binds to state officials and all Indonesians to uphold the prevailing laws. An arbitrary act without heed to the law is not allowed by anyone as well. Applicable law should be made in such a way as to the sense of justice and the sense of Community law (Maschab, 1988).

How the role of Tipikor of the Poldasu unit in the disclosure of corruption crimes. How to conduct the calculation of state financial losses in criminal acts of corruption in the TipikorPoldasu unit.

Literature Review

The role of the police force in the corruption disclosure

Corruption is generally performed by the middle-or so-called white-collar crime that is crimes committed by people who are privileged and deemed honorable, because it has an important position either in government or in the World of Economics (Sudarto, 1997), even the perpetrators of corruption is not the person recklessly because they have access to do the corruption, by abusing the authority, opportunity or means in them. (Harkrisnowo, 2002). Corruption is a public office for personal gain employing bribery or unauthorized commission (Sano, 2003). With many legislation relating to the eradication of corruption, it does not instantaneously make the corruptors afraid to do corruption, but the most important is how the operationalization/implementation of the regulation in tackling the Corruption criminal act in Indonesia. That criminal law enforcement is not completed only on the arrangement in the legislation, but also must be applied and implemented in society (Muladi, 1995). If law enforcement against criminal crime perpetrators does not give a deterrent effect, it will inflict a greater loss of state that will affect the development to achieve the country's goal of the life of the nation. (Muladi and Arief, 1992) Law enforcement is one of the ways to create order, security, and tranquility, as an effort to prevent or eradicate or reaction after the violation of the law (Aflah, 2002). The supervision/control of State power is the real juridical dimension of criminal law; The juridical task of the Criminal law is not governing society but rather governing the ruler (Arief, 2005).

Article 25 of the Law No. 20 of 2001 on the amendment to Law No. 31 of 1999 on corruption eradication said that the investigation, prosecution, and examination of the court in the case of corruption crimes must take precedence over other matters for immediate completion. Thus, eradication of corruption crime is the same as the criminal act in the general beginning with the investigation in this case the Indonesian National Police. Police investigators to make the light of a case can decide to determine the need for someone suspected of committing a corruption criminal to be arrested or not withheld. The power of determining the perpetrator is guilty or innocent owned by the investigator PoIri, making the police investigators position in an important position concerning the life of the citizens, and therefore also often the target of criticism of the treatment of the alleged crimes that are considered to exceed the boundaries of authority as police (Suparlan, 2003). The role of the police is very important in law enforcement, although in its development in addition to the national Police and prosecutors, the state there is an institution that is specialized in criminal acts of corruption i.e. corruption Eradication Commission, this is due to corruption crimes is an extraordinary crime and has implications of the

progress of the state. Also, most of the corruption actors are on the bureaucracy that holds the power because it takes the super body to get through the existing regulations.

Police as a subsystem of the criminal justice system, authorized to perform the task of research, investigation of all criminal acts of corruption in accordance with the laws of criminal proceedings and other statutory regulations, in addition to legal institutions such as prosecutors and Corruption Eradication Commission (KPK). If the police officers perform the task of investigation, the case of corruption, since the beginning of the case investigation is always coordinate with the Public Prosecutor, to avoid repeated matters back and forth, as mentioned in article 30 of Law No. 16 of 2004 concerning the attorney of the Republic of Indonesia, that the prosecutor as a claimant for mutual coordination with the police. Police in the effort to accelerate the eradication of corruption coordinating with other related institutions, this is further affirmed in Presidential Instruction No. 5 the year 2004 on the acceleration of eradication of corruption, which instruct the special to the head of the Indonesian National Police, namely: (1) Optimizing the investigation efforts on criminal acts of corruption to punish perpetrators and save the state money. (2) Preventing and giving strict sanctions on the misuse of authority by members of the Republic of Indonesia police in the framework of law enforcement. (3) Improving cooperation with the Indonesian attorney, financial and development supervisory bodies, reporting and Analysis Center for financial transactions, and State institutions related to law enforcement efforts and the return of state financial losses due to corruption crimes. Reports of corruption crimes received and followed up by the investigation of Corruption Crimes, Ditreskrimsus-Police area North Sumatera. Corruption crimes investigation was conducted based on reports from various parties, namely Community reports, NGO reports, reports of institutions/institutions, and police reports. Based on the report, it is done research and investigation and then delegated to the public prosecutor if there is sufficient evidence of corruption crime. Standard Operational Procedure (SOP) Subdit III/Tipikor in the police of the North Sumatera area in the research and investigation of corruption crimes is as follows.

Receipt of Report on Complaints on Cases of Corruption

(a) The source of corruption criminal information is preliminary data obtained from information or reports; Inspectorate in Government, BPKP/BPK, intelligence officers, DPR who is a follow-up audit results of BPK, society, non-governmental organizations. Investigation. (b) Information originating from the submitted community is written about the name data, the address of the reporter by attaching a copy of the ID card, and accompanied by a proof of preliminary evidence. (c) The source of written information must be recorded in the registration book. (d) The information must be clarified by conducting a case degree by investigators. The complete source of information that investigators receive should be researched a degree of matter to determine the ability to be increased to the investigation stage. (e) The Source of information that can be upgraded to the investigation stage is made by the information report as the beginning and basic material of the investigation. (f) Incomplete sources of information derived from the public are still being conducted by investigators on the reported object. (g) Source of information that can not be upgraded to the research stage to be made a notification letter of the research result to other agencies/informers and recorded in the registration book.

Corruption case investigation

Research cases of corruption crimes are conducted by (a) The source of information that has been researched and upgraded to the investigation stage poured in the information report is the initial and basic data of the investigation. (b) Prepare for research administration, among others: 1) Create a task warrant. 2) Create an inquiry warrant. 3) Create an investigation activity plan. (c) Investigators to guided the laws violated to determine the element against the law. (d) The target for investigation may be conducted against persons, objects and places, and events or events which have to do with alleged corruption crimes. (e) Investigation can be done openly with interview techniques, interrogations, and by way of enclosed with observation techniques, undercover, and surveillance. Scrutiny openly the results are poured in the form of news events description (without pro-Justitia) or record form. (f) A closed investigation of the results is poured out in the form of information reports. (g) The attitudes and behaviors that investigators must show are: maintaining and maintaining harmonious relationships with research objects through intensive coordination and consultation as needed in the field. Communicating with the object/target investigation with polite, and flexible so that his presence and existence is accepted by the community. To uphold the ethics and always display the identity and behavior of the praises. Do not publish findings and research results to the public and keep the confidentiality of the information to uphold the presumption of innocence. Keep the confidentiality of something (data and information) confidential so as not to harm institutions, themselves, and others. (h) Coordinate with prosecutors to avoid duplication of case handling. (i) Investigators may involve related agencies (BPKP/BPK and prosecutors) to determine whether such crimes include corruption or not so that they can be able to establish their presence to the investigation phase. (j) To investigate, investigators may request to BPKP/BPK to conduct

an investigation Audit. (k) finished the investigation to create the investigation results report. (l) Do the degree of the investigation results to determine whether the results of the investigation obtained have fulfilled the preliminary evidence that a criminal offense has occurred. (m) Create a plan for follow-up investigations or investigations when the results of a research that has been broadcast have sufficient preliminary evidence that corruption has occurred. (n) Create a notification letter of research result (SP2HP) to the reporter about the can/whether the information is given to be/cannot be done investigation. (o) Create a notice of research result Development (SP2HP) periodically.

Corruption Case Investigation

Investigation of the case of corruption crimes is conducted by after the results of the research stipulate that the information/reports obtained have been fulfilled enough preliminary evidence there has been corruption criminal act, made the police report Model A as the basis of the investigation. Prepare team/Organization task investigation. Create a warrant investigation to arrange a plan for the investigation by noting: The witnesses/witnesses who will be called to be examined, the objects to be seized. Suspect to be Denied. Target time investigation. Preparation of investigation facilities. Budget/cost of the investigation. Create a warrant to start the investigation. Perform forced/oppressing efforts in the investigation process, by underpinning the criminal code and administration instruction, in The calling of witnesses. The suspect's calling. Expert calling. Examination of witnesses/suspects. Expert examination. Foreclosure. Arrest. Detention. Completion and submission of case files. Avoid the use of violence and other violations in the effort to force enforcement. Do the degree of corruption criminal act as an attempt to control the investigation so that the results are optimal. Create SP2HP periodically in the process of corruption-criminal investigation.

Examination to the regional head and deputy head of provincial, Regency/City and Chairman/member of DPR, DPD and DPRD Provincial and Regency/City.

Basic and guidelines: Law No. 32 the year 2004 on local government. Law-Number 27 the year 2009 about the MPR, DPR, DPD, and DPRD. Circular letter of the Supreme Court No. 09 of 2009 about the guidelines for investigation of local head and DPRD members. Letter of KAPOLRI number Pol: R/1583/VI/2007, dated 21 June 2007 concerning the mechanism for the request of permission to the President and the Minister in the State to check the head/regional representatives, members of MPR, DPR, DPD, and provincial DPRD.

The head or deputy chief of the regional police apply for examination as a witness/suspect against the head/Deputy District chief, member of MPR, DPR, DPD and provincial DPRD to Kapolri, Kabareskrim Polri with the features: police report, SPDP, Resume Inquiry/Case progress report on the expert statement on state financial losses, for corruption criminal matters. Note degree in the Polda level, which was attended by investigators, prosecutors, and BPKP for criminal acts of corruption, cover letter addressed to Kapolri, Up. Kabareskrim police signed the head or deputy chief of the regional police.

The above application will be processed after the following stages: The application administration research from the regional police chief. Research the degree of matter to be held. The readiness of related agencies to present the timing of the degree of the title implementation of the degree attended by representatives of the Cabinet Secretariat, Menkopolhukam, Depdagri, Attorney General, and Polri. From the outcome of the case will be decided whether the application of permit to examine the head/Deputy chief of regional, members of MPR, DPR, DPD can be followed up.

The investigation of the local head and/or regional deputy is carried out after the president's prior written approval of the investigation. If the written consent is not given by the President within the latest 60 (sixty) days from the date of receipt of the application by Seskab, then the investigation process can be done. It can be interpreted and worth noting about the presence/absence of the approval request done by investigators, if there is already a request letter and has been through the period of 60 (sixty) days from the date of receipt of the letter by Seskab, then the investigation process must continue to run or continue. The provisions of the calling and inquiry of the members of the MPR, DPR, and DPD must obtain the written permission of the President within 30 (thirty) days from the receipt of the application, if within 30 (thirty) days of written permission is not given by the President, then the process of calling and request for information is still possible. The provisions of the calling and inquiry of the provincial DPRD member must obtain written permission from the Minister of Home Affairs and to the member of the DPRD Regency/city to received written permission from the governor, the prevailing provisions are within 30 (thirty) days since the receipt of the application, if within 30 (thirty) written permission days are not given, then the process of calling and request of information.

Termination of Case Investigation of corruption

Basic and guidelines: Law number 8 the year 1981 concerning criminal code. Perkap No. 12 year 2009 on

supervision and control handling criminal matters. The process of investigation into the report/information obtained, apparently not found insufficient evidence or is not a criminal act of corruption, immediately carried out a degree of matter. Before the title was conducted to make a report of investigation results. A report of the investigation made by investigators was submitted at the time of the title to consider and stipulate that the outcome of the investigation can or does not be increased to the investigation stage. Create a survey result report to the investigator's employer for directions and instructions. The implementation of the title to determine the termination of the investigation involving the participants of the title, surveys/investigators, functions/agencies, and parties outside the national police, informers. The verdict and determination of termination of the investigation are made in writing to an investigator and SP2HP employer.

Termination of Investigation on Corruption Cases

Basic and guidelines: Law number 8 the year 1981 concerning criminal code. Perkap No. 12 year 2009 on supervision and control handling criminal matters. Termination of inquiry can only be done after the maximum investigation action but the investigation results cannot be continued for reasons: there is not enough evidence. The event was not a criminal offense. Stopped by law, because; the suspect died. Criminal prosecution has expired. The criminal offense has been awarded a judge who has a fixed legal force. The decision to stop investigation can be carried out after the degree of case. Participants of the title to decide the termination of the investigation are investigators and investigator supervisors. Investigating supervisor who made the investigation warrant. Itwasda Propam. Binkum. Expert Witness. Reported parties and legal advisors. Reporting party and legal counsel.

After the execution of the title in accordance with the title of the event, next stage: Make a report of the results of the title. Submission of reports to authorized officials by attaching the results of the minutes of the meeting of Referrals and dispositions of competent officers. The results of termination of the investigation are reported to the officials of the leading degree of the case to obtain instructions and follow-up decision on the outcome of the title if the chief officer of the title agreed to the termination of the investigation, the investigator shall immediately execute termination The implementation of termination of an investigation by investigators, conducted in the form; Issuance of notice of termination of Inquiry (SP3) by the authorized officer. Making news of the event termination investigation made by investigators and endorsed by investigators and endorsed by investigators, and; The delivery of a notice of termination of the investigation by investigators to the suspect/family and the public prosecutor. The determination and decision of termination of inquiry are notified by SP2HP to the information provider/reporter periodically.

Collection and Storage of Evidence of Corruption

Basic and guidelines: Law No. 8 of 1981 concerning Criminal Code. Perkap Number 10 the Year 2010 on the procedure for the management of evidence in the environment of the Indonesian National Police. Prepare the personnel to be assigned a special deal with the evidence of the corruption with the warrant. Setting up a special place to store proof of luggage. Receive submission of evidence that has been seized by investigators; Recorded in the book Register evidence list; Storing evidence based on its nature and type; Securing the evidence to remain assured of quantity and/or quality; Controlling the evidence periodically/periodically and recorded in the control Book of evidence; Issuing evidence on orders of investigators to be borrowed to the right owner; Researching foreclosure warrants and news events submission of evidence made by investigators for the basis of receipt of evidence; Check and match the number and type of evidence received in accordance with the submission of evidence ceremony news; Examine and examine the type either based on the nature, form, and/or quality of the evidence to be carried out to determine the appropriate storage space; Noting the evidence received into the register of Evidence, signed by the officers who submitted and one of the PPBB that received the submission, and witnessed by other officers; To make a photoshoot on evidence as a documentation material for the Mencoret from the Register book, evidence that has been destroyed or submitted to the Public prosecutor; Report the action taken to the investigator and the head of the task Force. Police corruption criminal offense unit investigators in conducting research and investigations are carried out according to the operational standards of the procedure.

Implementation of Calculation of State Financial Losses in Corruption in the North Sumatera Police Corruption Crime Unit.

Methods of Calculating State Financial Losses

Basically, the method of calculation of state losses can not be set by default to be used as guideline/reference in calculating the loss of state, this is because modus operandi, case deviation, and form of state loss can vary, in the implementation of the examination, the examiner can choose the method that is considered most appropriate. In conducting the calculation of state losses can use various methods. The implementation of state loss

calculations can also be used two or more methods at once, depending on the complexity of the work and type of contract.

The following are some of the methods used in conducting the calculation of state losses, among others.

Apple to Apple Comparison Methods

The terminology Apple to Apple comparison is typically used to test price fairness in the procurement of goods, especially moving goods. The method of comparison of Apple to Apple comparisons is to compare two objects that are not just the same type but the elements that make up the object must also be the same. The elements that must be considered when comparing the price of goods are as follows: The specifications of an item; Cost of transportation; Insurance Tax Installation fee; Cost of testing goods; Partner Benefits

The thing that should be considered in the use of this method is: when procurement of goods executed in a certain year it should be compared with other procurement documents similar in the same year. If the contract is in a foreign currency, it must be compared with the exchange rate in the same year. In terms of procurement of goods done through import, should be considered system.

Cost Of Production Methods

This method is usually used in the procurement of specific goods and no similar goods in the market. To calculate the value of the goods, it should be known the cost element that also forms the price of the item. Elements in cost of production include, among others: material prices, freight costs, insurance costs, overhead, testing costs, labor costs, assembly/installation costs, profits, and others. Furthermore, the elements of the cost of production are compared with the contract price. If the contract price is higher then it is the financial loss of the country.

Method of Comparison between Contract Value and Certain Market Price or Comparative Value.

This method is usually used in the procurement of land for the public interest by the government. This method is almost the same as the method from Apple to Apple comparison, but the factors that must be considered in the provision of soil compensation differ from the factors in the method of Apple to Apple comparison of procurement of goods. Factors to be considered in this method are real value/Market and tax object selling value; Land location. Type of land rights; Land-designated; Suitability of land use with the regional spatial land plan; Available infrastructure; Facilities and utilities; Environment and others that affect the price of the land.

Total Loss Methods

In this method, the amount of state financial losses are determined based on the amount paid/incurred or the amount not deposited into the State treasury. This method is usually used to calculate the state's financial losses on unpaid receipts (partially or wholly), expenditures on the implementation of fictionalized activities, expenditures not based on statutory regulations, procurement of government goods/services that are not as specification and cannot be utilized, and so on. This total loss can also be done by adjusting upwards or downward adjustments. The method of calculating the country's financial losses with adjustments to the above is used when for settlement of cases of state financial losses that occur still required costs (such as the cost of coverage), therefore the amount of the state financial losses are calculated by adding the financial losses of the country that occurred at the cost of the announcement. While the method of financial loss of the state with the adjustment down is used when the goods are purchased, although it can not be utilized but still worth, the value of the goods are used as a deduction of the total losses incurred, or in other words, the financial loss of the country is calculated by reducing the value of state financial losses that occur with the value of goods that cannot be utilized. In using the total method of loss on credit, interest and fines can be taken into account as the country's financial loss enhancer, or the amount of the state's financial loss is calculated as the amount of the jammed credit coupled with interest and fines.

State Loss Calculation Stage

The process of calculating state finances is divided into four (4) stages as follows.

Determining the presence or absence of state financial losses

At this stage, the investigation, investigators, and then the prosecution formulated acts against the law based on its legal fact, among them; Crime, determine whether or not the state's financial loss, and the state's financial loss form. In addition to analyzing legal facts, law enforcement officials also see how much the odds of winning this matter in court related to the power of evidence and evidence presented in court, which then became a tool

of evidence for the consideration of the tribunal judge, in this case, the law enforcement authorities determine whether the article is more readily ensnare suspect, for example, whether the suspect will be entangled with an enriching article or to misuse of the authorities in article 2 and article 3 of the Corruption Act of criminal acts. The result of the first stage is determining whether there is a state financial loss. It is closely related to the end of the second stage, i.e. counting the majority of state finances.

Calculating State Financial Losses

At this stage, the party responsible for calculating state financial losses is the accountant/auditor / forensic accountant. In the law, the party calculating state financial losses is referred to as an expert, as regulated in Article 1 point 28 of the Criminal Procedure Code, an expert is someone who has special expertise on matters needed to make light of a criminal case for examination. Article 11 letter c Law Number 15 the Year 2006 concerning the Audit Board, the expert is the BPK (not an individual, member, employee, auditor). Article 32 paragraph (1) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes, experts are authorized institutions or appointed public accountants who calculate the actual amount of state losses that have existed State financial losses are state losses whose amount can already be calculated based on the findings of the authorized agency or appointed public accountant.

The first stage (determining state financial losses) and the second stage (calculating state financial losses) are closely related, the process is interactive and reiterative, therefore these two stages practically end simultaneously. These two stages continue until law enforcement (Polri, prosecutors, judges) and forensic accountants are ready for prosecution in court. Based on the evidence and evidence that has been collected to date, they can decide: To collect additional evidence and evidence; Strive to recover state financial losses through civil law or administrative law; Stop investigations by the Police and the Attorney General's Office.

If at the end of the first and second stages, the investigator concludes: there is not enough evidence to prove the elements of a criminal act of corruption, but there has been a real loss to the state, then the investigator submits the case file, the results of the investigation to the State Attorney for a civil suit or submission to the aggrieved agency to file a lawsuit (Article 32 paragraph (1) of the Corruption Eradication Act). Elucidation of Article 32 paragraph (1) confirms that what is meant by real state financial losses are state losses which can be calculated based on the findings of the authorized agency or appointed public accountant. Supported by Article 32 paragraph (2) that an acquittal in a corruption case does not abolish the right to claim losses to state finances.

Determining State Financial Losses

In the criminal act of corruption, the third stage is the verdict of the panel of judges, both in the District Court, High Court and at the Supreme Court.

Determining the amount of replacement money payment

The fourth stage is related to convictions in criminal acts of corruption. Payment of replacement money is one of the additional penalties in the Law on the Elimination of Corruption as regulated in Article 18 paragraph (1) third point,; payment of replacement money in the amount of the maximum is the same as property obtained from the crime of corruption.

Thus, from the stage of calculating state losses above, it can be seen that the party responsible for calculating state financial losses is the accountant/auditor / forensic accountant or in law, the party calculating state financial losses is called an expert. In investigating and investigating the National Police, there has been a loss of state finances in criminal acts of corruption using the audit results from the BPK or BPKP institutions. State financial losses as one of the elements of corruption in Article 2 and Article 3 of the Corruption Eradication Law, so the calculation and determination of state financial losses that comply with statutory provisions must be carried out carefully and precisely.

One of the elements that can determine the occurrence of a criminal act of corruption is the existence of an act that causes losses to state finances. However, before determining the existence of a state financial loss, of course, there is a need to have a clear juridical definition of the definition of state finance. The absence of synchronization of legislation in Indonesia causes the definition or definition of state finance to overlap. This implies that there will be more opportunities for interpretation of an act that is considered against the law so that it becomes a cause of legal uncertainty (Girsang, 2012).

Regarding the problem of the authority to calculate state financial losses in the criminal act of corruption, there is legal uncertainty, the agency that does the calculation, there is legal uncertainty in the handling of corruption cases due to unclear definition of state financial losses. This also implies which institutions have the right and authority to declare state losses. This formulation of state losses is used as an element in corruption cases that

must be proven in court. There are times when to prove whether or not there is a loss in state finances, law enforcement, in this case, the Attorney General's Office and the Police, depending on the results of audits of non-law enforcement institutions, namely the BPK and BPKP. However, on the other hand, the investigating police and investigating prosecutors sometimes have their calculations and are not based on the audit results of the BPK or BPKP in calculating the amount of state financial losses they suspect or are accused of. If it is consistent in adhering to the teachings against formal law following the Constitutional Court decision, then the BPK is the institution that has the most authority to determine the existence of state losses.

In the decision of the Constitutional Court (MK), it was stated that corruption investigators have the right to coordinate with any institution, including the BPK and BPKP, or other institutions that can determine state losses. The assessment depends entirely on the panel of judges. The Constitutional Court countered the interpretation of the BPK Law that only the BPK had the authority to determine state losses. The Constitutional Court's decision constitutes a request for a judicial review of the BPK and BPKP status against the 1945 Constitution Article 23E paragraph (1) which states: To examine the management and responsibility of state finances, a free and independent Supreme Audit Agency is established. The Constitutional Court has a good view that BPK is regulated by Law Number 15 of 2006 and BPKP which is regulated by Presidential Decree Number 103 of 2001 and Government Regulation Number 60 of 2008, each of which has the authority to conduct audits based on regulations, including investigative audits, of course along with the determination of state losses. Every indication of a criminal act of corruption is inseparable from an illegal act that results in state financial losses. This element of state financial loss must also be seen from the start of investigations and investigations into criminal acts of corruption that will be submitted to the Court. Where in the investigation and investigation, one of the institutions that play a role is the Police (besides the Attorney General's Office and the KPK). The police in the investigation and investigation of criminal acts of corruption must be able to prove the existence of illegal acts that have resulted in state financial losses which must coordinate with related institutions in calculating state finances as stated above that the calculation of state financial losses from Police Investigators can be in the form of audit results. from the BPK / BPKP auditors.

The work relationship authority between BPKP auditors is the relationship requesting assistance to determine whether or not there is a state financial loss in a case investigated by Regional Police Investigators in the Corruption Eradication Unit of Poldasu. Where there is a criminal act of corruption that is suspected of being committed by a perpetrator, it must be proven beforehand whether there is a state loss whose auditing is carried out by the BPKP Representative of North Sumatera Province. Collaboration between Poldasu Investigators and BPKP auditors for Representatives of North Sumatera Province is absolute and this has been regulated in a Memorandum of Understanding (MoU) between the National Police Chief and the Head of the Central BPKP, which has been implemented at the provincial or regional level. The audit results of the BPKP auditors can be classified as documentary evidence in the law of evidence based on the Criminal Procedure Code. Since the audit result letter is a letter written by an expert in the form of opinion regarding a certain matter in his field of expertise that the right relates to a criminal case, this letter is prepared to comply with the official request of a Polda Investigator, such as a request to conduct an investigative audit.

The existence of documentary evidence resulting from the audit results will also be followed by evidence of witness testimony. Based on this, the BPKP auditors will obtain 2 pieces of evidence, namely, the results of the audit as evidence of letters and statements from the BPKP auditors themselves. The suggestion is that it is hoped that improvements will be made regarding the regulation of criminal acts of corruption, especially with the existence of one law with another and become the basis of authority for law enforcement officials, especially the National Police to handle corruption crimes and also the authority of state institutions such as the BPKP so that there is no overlapping task between state institutions. The last clause of corruption is to result in state losses. BPKP is a partner of the Police and the Attorney General's Office in investigating corruption cases and calculating the resulting state losses. The purpose of using BPKP services in calculating state losses cannot be separated from the expertise inherent in the accounting profession. The calculation of state losses carried out by accountants is considered more reliable because accountants are considered experts in non-criminal economic investigations, especially those about corruption.

There are two opinions of accountants in the calculation of state losses, namely that it is impossible to calculate state losses without carrying out an investigation, and the calculation of state losses can be carried out without going through investigative procedures carried out by the calculating accountant. The currently dominant opinion is the second opinion, namely that the calculation of state losses can be carried out without the accountant's obligation to carry out investigative procedures. This opinion assumes that the data or evidence provided by the investigator includes the necessary evidence to support the conclusion that an act is proven to fulfill the elements of corruption.

A crucial problem is if the data or evidence provided by the Investigator is actually an assumption or potential for corruption, not evidence that supports the fact that corruption has occurred. Whatever opinion is adopted, as long as the state loss calculation report discloses the limits of the procedure and its impact completely and honestly, so that it does not cause misinterpretation, it should not be a problem. The problem arises when the prosecutor requires an editorial report that does not open up doubts regarding the calculation of state losses. In such a case, the accountant cannot issue a calculation of state losses without carrying out the investigative procedures deemed necessary. In such a case, the accountant is in principle obliged to carry out procedures deemed necessary, including investigative procedures, to convince himself that the losses that are calculated are state losses, such losses are caused by the alleged illegal activity, and the loss is related to the suspect and the suspect's actions. If the procedures that can be implemented are insufficient, then the accountant can still issue a report on the calculation of state losses by disclosing the procedure that cannot be implemented and its impact on the interpretation of state losses.

Conclusion

The calculation of state losses in criminal acts of corruption at the Poldasu Corruption Unit to enforce the law and to recover state financial losses due to corruption is carried out by coordinating with relevant agencies or based on the audit results from the BPK / BPKP auditors. The government needs to create a uniform legal rule in determining the elements of state financial losses that are carried out by the BPKP or the Police as Investigators. The Poldasu Corruption Unit needs to improve cooperation or coordination with related agencies in the process of determining the elements of state losses from corruption. The Poldasu Corruption Unit increases the capacity of Human Resources so that the entire process of determining the elements of state losses in corruption can be more efficient and there is a supervisory system in the entire process.

Reference

- Aflah, N. R. (2002). *Barang Bukti Dalam Proses Pidana*, Sinar Grafika, Jakarta.
- Arief, B. N. (2003). *Kapita Selekta Hukum Pidana*, Bandung: PT. *Citra Aditya Bakti*.
- Aspan, H., et.al.(2020). "Individual Characteristics and Job Characteristics on Work Effectiveness in the State-Owned Company: the Moderating Effect of Emotional Intelligence". *International Journal of Innovation, Creativity, and Change (IJICC)*, Volume 13, Issue 6, pp. 761-774.
- Aspan, H. (2016). Konstruksi Hukum Prinsip Good Governance dalam Mewujudkan Tata Kelola Perusahaan yang Baik. *Dialogia Iuridica*, 6(2).
- Aspan, H. (2017). "Good Corporate Governance Principles in the Management of Limited Liability Company. *International Journal of Law Reconstruction*, Vol. 1, No. 1, pp. 87-100.
- Aspan, H. (2017). Aspek Hukum Dalam Bisnis: Tinjauan Atas Masalah Perlindungan Hukum Pemegang Saham Minoritas dan Masalah Penggabungan Perusahaan(Merger).
- Aspan, H. (2017). Peranan Polri Dalam Penegakan Hukum Ditinjau Dari Sudut Pandang Sosiologi Hukum. In *Prosiding Seminar Nasional Menata Legislasi Demi Pembangunan Hukum Nasional* (pp. 71-82).
- Aspan, H. (2020). The Political History of Land Law in Indonesia. *International Journal of Advance Research and Innovative Ideas in Education (IJARIE)*, e-ISSN, 2395-4396.
- Aspan, H. (2020). The Role of Legal History in the Creation of Aspirational Legislation in Indonesia. *International Journal of Research and Review (IJRR)*, 7(6), 40-47.
- Aspan, H., Fadlan, F., & Chikita, E. A. (2020). Perjanjian Pengangkutan Barang Loose Cargo Pada Perusahaan Kapal Bongkar Muat. *Soumatara Law Review*, 2(2), 322-334.
- Aspan, H., Wahyuni, E. S., Effendy, S., Bahri, S., & Rambe, M. F. dan FB Saksono. (2019). "The Moderating Effect of Personality on Organizational Citizenship Behavior: The Case of University Lecturers". *International Journal of Recent Technology and Engineering (IJRTE)*, 8(2S), 412-416.
- Harkrisnowo, H. (2002). Korupsi, Konspirasi dan keadilan di Indonesia. *Jurnal Dictum LeIP, Edisi I, Lentera Hati, Jakarta*.
- Maschab (1988). *Sistem Pemerintahan Indonesia (Menurut UUD 1945)*, Bina Aksara, Jakarta.
- Muladi (1995). *Kapita Selekta Sistem Peradilan Pidana*, Badan Penerbit UNDIP, Semarang.
- Muladi dan Arief (1992). *Bunga Rampai Hukum Pidana*, Alumni, Bandung.
- Nashriana, N. (2010). Asset Recovery Dalam Tindak Pidana Korupsi Upaya Pengembalian Kerugian keuangan Negara. *Jurnal Kajian Syari'ah*, 10(2).
- Pope, J. (2003). *Strategi Memberantas Korupsi: Elemen Sistem Integritas Nasional*. Yayasan Obor Indonesia.
- Ridwan, (2009). Kebijakan Penegakan Hukum Pidana dalam Pemberantasan Tindak Pidana Korupsi di Indonesia, *Jurnal Jure Humano*, Volume1 Nomor 1.
- Ridwan, R. (2010). *Kebijakan Formulasi Hukum Pidana dalam Penanggulangan Tindak Pidana Korupsi* (Doctoral dissertation, UNIVERSITAS DIPONEGORO).

- Sano, H.O. et.al. (2003). Hak Asasi Manusia dan Good Governance, Membangun Suatu Ketertiban, Departemen Hukum dan Hak Asasi Manusia, Jakarta.
- Soewadji (2005). Merubah Image Polisi, Pustaka Bintang, Jakarta.
- Sudarto (1997). Hukum dan Hukum Pidana, Alumni, Bandung, 1997.
- Sumaryanto, A. D. (2009). Pembalikan Beban Pembuktian Tindak Pidana Korupsi dalam rangka Pengembalian kerugian keuangan Negara, Prestasi Pustaka, Jakarta.
- Suparlan, P. (2003). Polisi dan Fungsinya Dalam Masyarakat. Rajawali, Jakarta

Regulation

- Instruksi Presiden Nomor 5 Tahun 2004 tentang Percepatan Pemberantasan Korupsi.
- Instruksi Presiden Nomor 5 Tahun 2004 tentang Percepatan Pemberantasan Korupsi.
- Undang Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia.
- Undang-Undang Nomor 17 tahun 2003 tentang Keuangan Negara.
- Undang-Undang Nomor 20 Tahun 2001 tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.
- Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.

