

IMPLEMENTATION OF THE ROLE OF THE PROSECUTION IN EFFORTS TO MANAGE PROOF EVIDENCE CRIMINAL ACTS OF CORRUPTION

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Abstract

The prosecutor's office is the only state institution which is a government apparatus that has the authority to delegate criminal cases, prosecute perpetrators of criminal acts in court and carry out decisions and decisions of criminal judges. This power is a characteristic of the prosecutor's office which differentiates it from other law enforcement institutions or agencies. other. In implementing the Judge's decision, the Prosecutor has the authority to execute the evidence by destroying or confiscating it for the benefit of the state or returning the evidence to its rightful owner in accordance with the decision determined by the Panel of Judges. In the event of confiscation of evidence for state interests, the Indonesian Prosecutor's Office also plays a role in managing the evidence. The prosecutor's office uses several methods or mechanisms to manage this evidence, which in practice is very important and crucial, especially in the use and income of state treasury. Based on the research results, it was found that regarding the management of evidence obtained by investigators, it cannot necessarily be managed by the prosecutor's office, but rather has a process so that it can ultimately be confiscated for the state and managed by the prosecutor's office. This process is important for the internal bureaucracy of the Prosecutor's Office as well as the transparency and efficiency of the work carried out by the Prosecutor's Office.

Keywords: *Role of the Prosecutor's Office, Corruption Crimes*

A. INTRODUCTION

Indonesia is a legal state based on the 1945 Constitution which emphasizes that the Indonesian State is based on law (Rechtstaat), not based on mere power (Machstaat). This means that the Republic of Indonesia is a democratic legal state based on Pancasila and the 1945 Constitution, upholds human rights, and guarantees all citizens equal status under the law and government. 1 The law determines what must be done and what must not be done and is prohibited. So if the prohibited thing is done, punishment can be applied through certain institutions. Prohibited acts, for example, are acts of corruption as understood by corruption as a reality of human behavior in social interactions which is considered deviant and endangers society and the State. In accordance with the Criminal Procedure Law, Indonesia has Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP). With the creation of the Criminal Procedure Code, it was the first time in Indonesia that complete codification and unification was carried out in the sense of the entire criminal process from the beginning of the investigation to the cassation at the Supreme Court, even including Judicial Review (Herziening) to the implementation of the decision. In Article 1 point 1 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, it is determined that the Prosecutor is a functional official who is authorized by this law to act as a public prosecutor and implement court decisions that have obtained legal force and other authority based on law. invite. The Prosecutor's Office of the Republic of Indonesia as a state government institution that exercises state power in the field of prosecution must be free from the influence of the power of any party, that is, it is carried out independently regardless of the influence of government power and the influence of other powers. The prosecutor's office as a law enforcement agency is required to play a greater role in upholding the supremacy of law,

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protecting public interests, upholding human rights and eradicating corruption, collusion and nepotism (KKN). In carrying out indictments and demands, the Prosecutor as a public prosecutor will not only make criminal charges and/or fines against the defendant but will also make demands on evidence which can be in the form of demands that the evidence be destroyed or confiscated for the benefit of the state or returned to its rightful owner. Then the evidence will be executed by the Public Prosecutor according to the Judge's Decision which has permanent legal force (inkracht). In implementing the Judge's decision, the Prosecutor has the authority to execute the evidence by destroying or confiscating it for the benefit of the state or returning the evidence to its rightful owner in accordance with the decision determined by the Panel of Judges. In the event of confiscation of evidence for state interests, the Indonesian Prosecutor's Office also plays a role in managing the evidence. The prosecutor's office uses several methods or mechanisms to manage this evidence, which in practice is very important and crucial, especially in the use and income of state treasury. According to Djoko Prakoso, evidence is tangible, movable or immovable items that can be used as evidence and whose function is to be shown to the defendant or witnesses at trial in order to strengthen the judge's confidence and determine the defendant's guilt.

According to Andi Hamzah, the characteristics of objects that can become evidence are:

- a. It is a material object
- b. Speak for yourself
- c. The most valuable means of proof compared to other means of proof
- d. Must be identified with witnesses and the defendant's statement.

Based on the Regulation of the Attorney General of the Republic of Indonesia Number PER006/A/JA/07/2017 Article 979, the Evidence and Seized Property Management Section has the task of managing evidence and confiscated goods originating from general crimes and special crimes. In carrying out the duties as intended in Article 979 of the Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA /07/2017, the Evidence and Confiscated Property Management Section carries out the functions:

- a. Preparation of materials for preparing work plans and programs
- b. Analysis and preparation of legal considerations for managing evidence and confiscated goods
- c. Management of evidence and confiscated goods includes recording, researching evidence, storing and classifying evidence, safekeeping, maintenance, security, providing and returning evidence before and after the trial and settlement of confiscated goods
- d. Preparation for the implementation of coordination and cooperation in the management of evidence and confiscated goods
- e. Management and presentation of data and information
- f. Implementation of monitoring, evaluation and preparation of reports on the management of evidence and confiscated goods.

In accordance with data released by Indonesia Corruption Watch (ICW) regarding the number of corruption cases that occurred in Indonesia from 2017 - 2021, it can be seen from the table below. Number of Corruption Crimes in Indonesia 2017 – 2021 Year Number of Cases 2017 266 2018 139 2019 122 2020 169 2021 209 Source: Indonesia Corruption Watch (ICW) Based on the corruption cases that have been revealed, the public does not know the process of managing evidence carried out by prosecutors In general, after a judge's decision legally and convincingly states that the defendant has committed a criminal act of corruption, the public only knows that the perpetrator of the corruption was declared guilty and sentenced to prison. Based on the background description above, the author is interested in conducting research on the role of the Prosecutor's Office in managing the results of the execution of evidence of criminal acts of corruption at the Binjai District Prosecutor's Office

and what obstacles are experienced by the Prosecutor's Office in managing evidence resulting from the execution of criminal acts of corruption in North Sumatra High Prosecutor's Office.

B. Formulation of the problem

1. What is the Role of the Prosecutor's Office in Efforts to Manage the Proceeds of Corruption Crime Evidence?
2. Obstacles in Managing Evidence from Corruption Crimes?

C. Research methods

The type of research used in this research is normative legal research methods or library legal research, namely legal research carried out by examining library materials, namely primary and secondary data. These legal materials are arranged systematically to make it easier to draw conclusions from the problems studied. In approaching this problem using the Normative Juridical approach method. This approach is an approach to applicable legislation. The statutory approach is carried out by examining all laws and regulations that are related to the content of the law being handled. The normative juridical problem approach is an approach used to approach statutory regulations (statue approach), this approach examines statutory regulations related to the problem being studied. Apart from that, a conceptual approach is also used to look at legal concepts related to existing problems.

D. DISCUSSION

1. The Role of the Prosecutor's Office in Efforts to Manage the Proceeds of Corruption Crime Evidence

The Prosecutor's Office of the Republic of Indonesia is regulated in Indonesian Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Republic of Indonesia This rule is the legal basis for carrying out duties as an investigator and public prosecutor. The Public Prosecutor is a prosecutor who is given the authority to carry out prosecutions and carry out the judge's decisions. Meanwhile, the Prosecutor is a functional official who is given the authority to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force and other authorities based on law. The Indonesian Prosecutor's Office, which is a government institution that exercises state power in the field of prosecution, must be free from any political power. In prosecutions, prosecutions are carried out openly regardless of the influence of government power and other influences and powers.

The prosecutor's office as a law enforcer is required to further uphold the supremacy of the law, protect public interests, uphold human rights (HAM), and eradicate corruption. As a criminal case, handling of corruption is carried out by investigators, public prosecutors and judges who are connected in what is called the Criminal Justice System. However, from a criminal procedural law perspective, it has certain specificities. Based on research conducted by researchers at the Prosecutor's Office, specifically in the special crime section, researchers obtained data on corruption cases that have been handled by the Prosecutor's Office and have had legal force (incraht) for the last four years which are contained in the table below. Table of Corruption Crime Cases handled by the Prosecutor's Office from 2019 to March 2022. Based on the table of corruption crimes above, corruption cases in the Prosecutor's Office increased from 2019 to 2020, and in 2021 there was no decline at all and is still at the top number seven, then in March 2022 it will reach three cases. Corruption cases handled by the Prosecutor's Office from 2019 to March 2022 took the form of extortion, gratification, fraudulent acts, bribery, embezzlement in office. There are only seven cases of criminal acts of corruption that have permanent legal force from 2019 to March 2022. Cases of criminal acts of corruption handled by the Prosecutor's Office which have permanent legal force (incraht) during the last four years are not comparable to the number of corruption cases that handled by the Prosecutor's Office.

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Regarding the management of evidence obtained by investigators, it cannot necessarily be managed by the prosecutor's office, but rather has a process so that it can ultimately be confiscated for the state and managed by the prosecutor's office. This process is important for the internal bureaucracy of the Prosecutor's Office as well as the transparency and efficiency of the work carried out by the Prosecutor's Office. Regulations regarding the flow of changes in the status of evidence are generally regulated in the Criminal Procedure Code as well as in other laws that regulate procedures for managing evidence and also confiscated items. For example, in carrying out confiscations and searches, this is regulated in Article 1 paragraph (6) of the Criminal Procedure Code which basically states that confiscation is a series of actions by investigators to take over and/or keep under their control movable or immovable objects, in the form of prosecutors. The Public Prosecutor appointed to handle the case receives the suspect and evidence from the investigator and the Prosecutor automatically becomes responsible for the evidence and the suspect.

Regarding evidence, the Public Prosecutor will hand over the evidence to be stored and recorded by the evidence management official, namely the Head of the Evidence Management Section or abbreviated as Kasi BB. This is done to ensure the security of the evidence because it will be used in the upcoming trial process. After the trial of the case is decided by the Judge to be destroyed, the Prosecutor who tried the case coordinates with the Head of BB Section as the evidence management official to destroy the evidence. However, if the Judge in his decision states that the items should be confiscated for the state, the Prosecutor who is hearing the case will also coordinate with the Head of BB Section to issue an official report on changing the status of the evidence to confiscated items so that later the management process can be carried out.

This is the earliest stage in managing looted goods. Evidence that will have its status changed to confiscated goods must have certain conditions, namely a judge's decision stating that the goods are confiscated for the state, an official report on their confiscation and other documents. The prosecutor as the executor of the judge's decision has the authority to carry out several methods to manage the items that the judge has decided to make them confiscated. These methods are direct sales, auctions through the State Property and Auction Services Office, Determination of Use Status, Grants to government agencies that need them, and if the looted goods are considered dangerous or violated by law to be managed then the looted goods must be destroyed. For items whose documents are incomplete and items that have been decided by the Judge to be returned but the legal owner refuses to accept the evidence, they cannot be used as confiscated goods, but the Prosecutor's Office will determine the status of the goods as found goods, but the mechanism for managing confiscated goods and found goods in general The same. When the Head of the BB Section has finished determining the status of the evidence as confiscated goods or found goods, the Head of the BB Section will hand over the items to the Head of the Development Sub-Section as the official authorized to manage the confiscated items.

After the Head of the Development Sub-Section (Kasubagbin) as the official in charge of managing the confiscated goods receives the items handed over by the Head of the Evidence Management Section, the Head of the Sub-Division of Evidence will check the completeness of the documents required for the auction as well as the suitability of the goods to the minutes of delivery of the goods provided. If the goods to be managed are suitable to be managed, the Head of Subagbin will carry out several methods or ways of managing the confiscated goods. The management methods or methods used by the Prosecutor's Office are:

- a. Auction sales are carried out by the Prosecutor's Office in collaboration with KPKNL (State Property and Auction Services Office) as the public auction service office. The Auction Sales Officer in the Attorney General's Office at the center is the Head of the Asset Recovery Center (PPA) and in the District Attorney's Office is the Head of the Development Sub Division through the Head of Financial Affairs. To carry out sales by auction, the Prosecutor's Office is required to fulfill the auction requirements documents that apply to all types of auctions submitted at the auction application stage to KPKNL.
- b. PSP (Use Status Determination) is carried out by the Indonesian Prosecutor's Office by managing the proceeds of state confiscated goods by determining the status of state confiscated goods as State Property (BMN) for use by internal agencies of the Prosecutor's Office. Goods whose usage status is determined to be state property are usually goods that have economic value that can be used by the Prosecutor's Office to assist operational activities by providing facilities and infrastructure that can be used by Prosecutor's employees and to support the Prosecutor's main tasks and functions. According to Gunadi, Head of Financial Affairs at the Medan District Prosecutor's Office, the stages in carrying out the Use Status Determination are: First, the District Prosecutor's Office, through the High Prosecutor's Office, namely the provincial level, gives a letter to the Attorney General's Office, namely the central level, so that the Attorney General knows that there are a number of confiscated items that will be used by the PSP. Second, after the Attorney General's Office received the letter, the Attorney General's Office sent an Appraisal Team, namely a team to carry out a physical and price assessment of the goods whose use status would be determined by the District Attorney for the PSP applicant. Third, after the Appraisal Team from the Attorney General's Office has finished carrying out the assessment, the Attorney General's Office will provide a letter of application to the Ministry of Finance to give approval for determining the use status of the confiscated items. An application for determining use status is submitted in writing by the user of the goods to the property manager no later than 6 (six) months after the confiscated goods were obtained. Fourth, after approval has been issued from the Ministry of Finance, on this basis the District Prosecutor's Office can determine the status of the use of the confiscated goods. Fifth, confiscated items whose use status has been determined are recorded in State Property at the District Attorney's Office.
- c. Donated to Regional Government Agencies. Donated to other agencies, namely giving the looted goods to other official agencies which are in need of the looted goods from the state. The Prosecutor's Office in this grant activity plays the role of Grant Giver. What is meant by grant giver is a party from within the country or abroad who gives grants to the Government. The grants made by the Prosecutor's Office are to government agencies that are related and in need. For example, a government hospital needs a car to be used as an ambulance, then when the local District Attorney has a car from the confiscated goods available that is suitable to be used as an ambulance then the Prosecutor's Office in this case can donate the car to the Health Service so that the car can be allocated for procurement. an ambulance. The stages in donating looted goods to other agencies in practice are as follows: First, to turn a looted item into a BMN (State Property), the regional government agency receiving the grant must first obtain approval to receive the grant of looted state goods. to the Ministry of Finance. Second, on the basis of the Ministry of Finance's approval for the donation of confiscated goods, the relevant District Prosecutor's Office will collaborate with the relevant agencies, or appraisal institutions or KPKNL in carrying out a first assessment of the confiscated goods. Third, after an assessment of the confiscated goods is carried out, the District Prosecutor's Office, through the Head of the District Attorney, issues a decree

granting the confiscated goods as well as a grant report to donate the goods to the regional government agency that received the confiscated goods grant. Fourth, the confiscated goods that have been donated will then be recorded in the BMN (State Property) records of the regional government agency receiving the confiscated goods grant.

2. Obstacles to the Prosecutor's Office in Managing Evidence from Corruption Crimes

Based on the results of an interview with the Head of the Special Crimes Section at the Prosecutor's Office, he explained that the management of confiscated goods is the end of the chain of the process of recovering criminal assets. Optimizing the management of confiscated goods will influence the output of the stages of the asset recovery process that have been carried out. To achieve this goal, management of confiscated goods must be carried out by paying attention to both law enforcement aspects and asset management aspects. The law enforcement aspect is the core of the asset recovery process. This process is carried out by law enforcement officials as part of the legal process carried out in the context of handling a criminal case. As it develops, the handling of criminal cases is carried out not only to punish the perpetrators of criminal acts but also to restore as much as possible the losses caused by the criminal acts committed. The asset management aspect is a component that needs to be added to the existing asset recovery process framework in order to obtain optimal results from the series of processes that have been carried out.

The asset management process in managing assets resulting from the recovery of criminal assets is carried out by taking into account the principles of effectiveness, efficiency and flexibility. An asset management approach in managing assets resulting from the recovery of criminal assets is very important to at least overcome several general problems that are often faced in efforts to recover criminal assets, namely:

- a. Problems related to costs that must be incurred in the context of maintaining, securing and storing assets during the legal process.
- b. The problem of asset value at the time the asset will be executed. Problems related to costs and asset values arise due to the long time it takes to resolve a case until a decision is obtained that has permanent legal force as the basis for execution. The long time for settling cases results in a long time span between asset confiscation and asset confiscation.

As a result, there is an increase in costs that must be incurred on assets on the one hand and a decrease in asset value on the other hand. These two things have a negative correlation with the asset recovery results that will be obtained so that they are not optimal. Often the data collection on items that become evidence is not yet connected with the relevant ministries and related institutions so that there is the potential for differences in data on confiscated items before a final court decision, this occurs due to the concealment of data on confiscated and confiscated items by their owners so that they are not owned by the state. Regarding the regulation of evidence outside the Criminal Procedure Code, namely those contained in the Attorney General's Decree Number: KEP089/JA/1988 concerning the Settlement of Seized Property which regulates the definition of evidence, the definition of confiscated goods, the settlement or management of confiscated goods, the granting of authority by Attorney General to the Head of the District Prosecutor's Office and Deputy Attorney General who are mandated to carry out matters regarding the management of state property originating from confiscated goods, Auction Permits, Implementation of Auctions, Technical Implementation of Every Method of Settlement of Confiscated Goods which it is hoped can become a reference and guideline for the Prosecutor's Office through a booty management official to resolve and manage the loot so that it can be turned into state assets and wealth. When the evidence decided by the Judge

is declared to be confiscated for the state, the Prosecutor has the authority to manage the confiscated goods which are divided into 5 (five), namely: selling directly; sold at auction through KPKNL; Determination of Use Status (PSP); granted to local government agencies; and destroyed if according to certain conditions the goods to be managed are not permitted to be managed according to the law and regulations of the competent authority. Evidence is an important element in resolving criminal cases. There are many in-depth legal regulations regarding evidence both within the Criminal Procedure Code and outside the Criminal Procedure Code. But KUHP.

In other laws and regulations there are definitions of evidence, but these laws and regulations are internal and not universal. Therefore, the author suggests that a comprehensive codification of regulations relating to evidence be created where regulations relating to evidence can clearly start from the definition of evidence, procedures for managing it, the flow of changes in status, and so on.

E. Closing

1. The prosecutor's office is a state institution that not only has duties and authority as a prosecutor but also as an executor, whether executing a judge's decision on bodies or evidence. In carrying out its duties, the prosecutor's office not only enforces the law but also enriches the state and returns lost state assets, whether through criminal acts of corruption, money laundering and so on, through the management of confiscated goods. Regulations related to evidence which are regulated in the Criminal Procedure Code, namely the first regarding items that can be confiscated, in practice can run well and efficiently because they involve a crime committed by a person and also have the essence of each crime committed and These goods have the potential to have economic value which can ultimately be confiscated for the state and become state assets. The authority of the prosecutor in executing evidence that has been regulated both within and outside the Criminal Procedure Code, namely in carrying out executions of bodies, is divided into 4 (four), namely: Death Penalty; Confinement/Prison Crime; Conditional Sentencing; and Criminal Fines and execution of evidence are divided into 4 (four), namely: Returned to the rightful owner; Annihilated; and Used in other cases and Confiscated for state interests. This authority is the basis for the Public Prosecutor in executing the decision issued by the judge after the trial.
2. The Prosecutor's Office as a law enforcement agency is required to play a greater role in upholding the supremacy of law, protecting public interests, upholding human rights, and eradicating Corruption, Collusion and Nepotism (KKN). In this new Prosecutor's Law, the Indonesian Prosecutor's Office as a state institution that exercises state power in the field of prosecution must carry out its functions, duties and authority independently, regardless of the influence of government power and the influence of other powers. Meanwhile, of the many authorities that the Prosecutor has as executor of court decisions, especially in the management of confiscated goods, there is no authority to carry out direct, independent management in the management of confiscated goods but must collaborate with other agencies such as related official agencies or the State Assets Service Office and Auction (KPKNL). In the author's view, this slows down or reduces the effectiveness of the work of the Prosecutor's Office. So the author suggests that the Prosecutor's Office create a new internal administrative body to handle auction administration activities starting from assessing the physical and price of the confiscated items to carrying out auction sales of the confiscated items.

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