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Analysis of The Meaning of Restitution of State Losses As The Abolishment of Corruption Crimes

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Abstract

This study aims to analyze the return of state financial losses as the abolishment of corruption crimes contained in the Circular Letter of the Attorney General Republic Indonesia Number B 1113/F/Fd.1/05/2010 concerning Priorities and Achievements in Handling Corruption Cases in point 1 which essentially states that people who return state losses due to corruption crimes can be given relief to abolish the criminal elements committed. The research uses a doctrinal. The results of the study show that the return of state losses committed by the perpetrators of corruption crimes cannot be used as a reason either to abolish the authority to prosecute corruption cases that are being investigated or as a reason for the abolition of corruption crimes committed by suspects, but the return of state losses is a reference for the judges to consider imposing criminal sanctions on the perpetrators as factors that mitigated him when he was submitted to the court as contained in Article 4 of the Law on the Eradication of Corruption

Info Artikel

Kata Kunci:
Korupsi;
Penghapusan Pidana;
Pengembalian Kerugian Negara.

Abstrak

Penelitian ini bertujuan untuk menganalisis pengembalian kerugian keuangan negara sebagai penghapusan tindak pidana korupsi yang tertuang dalam Surat Edaran Jaksa Agung RI Nomor B 1113/F/Fd.1/05/2010 tentang Prioritas dan Capaian dalam Penanganan Kasus Korupsi pada poin 1 yang pada dasarnya menyatakan bahwa orang yang mengembalikan kerugian negara akibat tindak pidana korupsi dapat diberikan keringanan untuk menghapuskan unsur tindak pidana yang dilakukan. Penelitian ini menggunakan doktrinal. Hasil penelitian menunjukkan bahwa pengembalian kerugian negara yang dilakukan oleh pelaku tindak pidana korupsi tidak dapat dijadikan alasan baik untuk menghapuskan kewenangan penuntutan kasus korupsi yang sedang ditelusut atau sebagai alasan penghapusan tindak pidana korupsi yang dilakukan oleh tersangka, namun pengembalian kerugian negara menjadi acuan bagi hakim untuk mempertimbangkan menjatuhkan sanksi pidana kepada pelaku sebagai faktor yang meringankan dia ketika diajukan ke pengadilan sebagaimana tertuang dalam Pasal 4 Undang-Undang Pemberantasan Korupsi

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INTRODUCTION

Indonesia has regulated the provisions of corruption crimes on Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes as an 'extraordinary crime' because it has clearly undermined and even endangered the country's finances and economy as well as violated the social and economic rights of the community at large. In Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes in article 4 which essentially states that the return of state financial losses or the state economy does not abolish the conviction of the perpetrators of corruption crimes. In line with Article 4, Arsil in Musahib states that "the voluntary return of money from corruption by the defendant is usually a reason for the judge to reduce the sentence. So, there is indeed a relevance between the return of corruption proceeds and the criminal sanctions imposed on the perpetrator. On the one hand, the return of corruption proceeds can be a reason for the judge to reduce the sentence for the perpetrator, but not abolish the sentence." (Musahib, 2015). So that article 4 of the Corruption Crime Law firmly rejects the return of state losses as an elimination of corruption criminal acts. However, although article 4 of the Corruption Law firmly rejects the return of state financial losses as a criminal abolition, it does not seem to be in line with the Attorney General's Circular Letter Number: B 1113/F/Fd.1/05/2010 concerning Priorities and Achievements in the Handling of Corruption Cases dated May 18, 2010 at point 1: "... that people who have consciously returned state financial losses, especially related to corruption cases where the value of state financial losses are relatively small, need to be considered not to be followed up, except for those that are still going on." Of course, article 4 of the Law on the Eradication of Corruption does not justify the return of state losses as the elimination of corruption crimes because it has been affirmed that the return of state losses does not eliminate corruption crimes. (Mandala et al., 2023). The reason for the limited funds in handling corruption cases that reached more than 500 million Rupiah until the final stage is a pretext for handling corruption cases that are not proportional to the amount of losses experienced by the state. This is certainly a problem because article 4 of Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of

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Corruption Crimes states that the return of state losses does not remove the elements of criminal acts of corruption. Meanwhile, in the Circular Letter of the Attorney General of the Republic of Indonesia states the opposite. So there is a problem of differences in the application of law to the norms. So that there is a difference between what is aspired to in the law and its application.

RESEARCH METHOD

This research focuses on a doctrinal approach, which is research that contains normative elements, analyzing legal theory, legal science, and legal philosophy (Muhdar, 2019). In this study, researchers will construct how the relationship between legal theory, legal concepts, and rules, and look at the reality in the regulation itself. In the first issue this article will analyze the meaning of the return of state financial losses can or may not be a reason for the abolition of corruption crimes. In this section, the research will describe the reasons that are the reference for the abolition of crimes that will be associated with the return of state losses as the abolition of crimes in corruption crimes. So that an explanation will be obtained regarding whether or not the return of state losses can be seen as a reason for the elimination of crimes in corruption crimes. In the second issue this article will interpret the meaning of article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption. So that the true meaning of the return of state losses to corruption crimes will be obtained.

RESULTS AND DISCUSSION

Return Of State Losses As A Reason For The Abolishment Of Corruption Crimes.

The reason for the abolition of a criminal offense is a regulation that stipulates under what circumstances a perpetrator, who has fulfilled the formulation of a delinquency that should be punished, is not punished. So that the reasons for the abolition of this crime are the reasons that allow the person who committed the actual act to have fulfilled the delicacy formula, but was not convicted. And s tate losses themselves, if interpreted in general, are a situation and/or event in which the state experiences a shortage and/or decrease in wealth (in this case including money, securities, and goods) caused by deviant and/or unlawful acts committed by a few people and/or corporations, before further discussion, it is necessary for the author to elaborate on the meaning of the return of state losses based on the Circular Letter of the Attorney General of the Republic of Indonesia Number B-1113/F/Fd.1/05/2010 concerning the priority of achievement in handling

corruption cases. In full, point 1 of the Circular Letter of the Attorney General of the Republic of Indonesia states that "The handling of corruption cases is prioritized on the disclosure of cases that are bigfish (large-scale, seen from the perpetrators and/or the value of state financial losses) and still going on (corruption crimes committed continuously or continuously), according to the explanation of the Attorney General of the Republic of Indonesia during the Working Meeting with Commission III of the House of Representatives on May 5, 2010 and the briefing of the President of the Republic of Indonesia at the opening of the Coordination Meeting MAHKUMJAPOL at the State Palace on May 4, 2010 so that in law enforcement to prioritize the sense of justice of the community, especially for people who have consciously returned state financial losses (restorative justice), especially related to corruption cases where the value of state financial losses is relatively small needs to be considered not to be followed up, except for those that are still going on (sustainable)." Based on point 1 of the Circular Letter of the Attorney General of the Republic of Indonesia, it can be said that the return of state losses is a form of action if the perpetrator or suspect of a corruption crime consciously and without coercion returns (replaces) state money lost as a result of the act of corruption committed by him where it causes state losses (materially), then law enforcement officials, which in this case are prosecutorial institutions, need to consider to not follow up on the investigation process of the case as a form of implementation of restorative justice because the perpetrators of corruption crimes have recovered the state losses they have incurred by returning a certain amount of money that makes the state suffer a shortage and/or loss. If translated specifically, point 1 wants to say that when there are people who are entangled in cases of corruption where it is detrimental to the state, then in the context of the implementation of restorative justice it is necessary to consider not continuing the case until the final stage. Problems began to occur in the phrase "especially for people who have consciously returned state financial losses (Restorative Justice)" especially the phrase "corruption cases where the value of state financial losses are relatively small need to be considered not to be followed up". There are several reasons that are used as the basis that 'the return of state losses can be used as a basis for the elimination of corruption' due to several factors, namely:

a) In some cases of corruption, more and more Suspects/Defendants voluntarily return state financial losses in the form of a sum of money to the Public Prosecutor (prosecution stage and trial stage), both in the form of handover

and custody. Therefore, the Attorney General's Office is of the view that it is necessary to make arrangements related to the status of cases for suspects who return state losses at the investigation or investigation stage to provide clarity on the legal status and sense of justice for suspects who have consciously and voluntarily returned state losses due to criminal acts of corruption committed by them. (Fitri, 2014)

b) The limit of the value of state financial losses that are categorized as small ranges from Rp 50 million to Rp 300 million. In the sense that automatically every corruption case where the value of the state's financial losses is below Rp 50 million, will not be followed up by law enforcement (prosecutor/police) as long as there has been a return of the value of state financial losses by the perpetrators, with exceptions for cases related to people's livelihoods such as Boss funds and Raskin Rice. (Attorney General Of Republic Indonesia, 2015)

c) The existence of the Attorney General's Circular Letter is an effort to save state financial losses due to corruption crimes from suspects, defendants or convicted of corruption crimes contained in Article 2 (1) or article 3 of Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes will accelerate and facilitate the return of state/regional financial losses or state assets in the form of money, compared to using criminal law instruments regulated in the Law on the Eradication of Corruption by confiscating tangible or intangible movable goods or immovable goods used for or obtained from corruption crimes. (Arrasid, 2020)

d) The cost of handling corruption cases incurred is not proportional to the value of state losses, for example, in each handling of corruption cases, the Prosecutor's Office has a budget ranging from the investigation stage to the execution of court decisions of 200 million Rupiah with details of costs, namely: 25 million for the investigation stage, 50 million for the investigation stage, 100 million for the prosecution stage. And 25 million for the cost of executing the verdict. So that with a large total budget, the handling of corruption cases where the state's financial losses are relatively small becomes useless because the state spends more money on handling than the return (Akbar et al., 2023)

e) Putting aside the prosecution of corruption cases where the value of state financial losses is relatively small, it can make law enforcement officials (especially prosecutors) more concentrated in handling large-scale corruption cases (bigfish) (Iskandar, 2021)

f) The philosophical basis for the creation of the Law on the Eradication of Corruption is about how state financial losses due to corruption can be recovered so that the return of state losses is prioritized to support the wheels of sustainable development. (Wahyudi & Salsabila, 2022)

Some of the reasons mentioned earlier became the basis for the Attorney General's Office to issue the Attorney General's Circular Letter of the Republic of Indonesia Number B-1113/F/Fd.1/05/2010 concerning the priority of achievement in handling corruption cases as an effort to recover state financial losses through restorative law enforcement channels. However, if you look carefully, point 1 of the Circular Letter of the Attorney General of the Republic of Indonesia states that perpetrators of minor corruption crimes (corruption crimes with a relatively small value of state losses) should be considered not to be followed up. However, on the way, almost all perpetrators of minor corruption crimes who return state losses are issued an Investigation Termination Order (SP3) by the District Attorney's Office and/or the High Prosecutor's Office that handles cases of minor corruption crimes. Examples of cases of minor corruption crimes that have been stopped because they have returned state financial losses are presented in the form of the following table:

Table 1. Examples of Corruption Cases Stopped by the Prosecutor's Office.

Case	Subject	State Loss	Reason for termination	Source of the reference
Alleged corruption of Pidie Jaya Regional Election grant funds by the Independent Election Commission (KIP) in 2018 in Pidie Jaya Regency,	14 Employees and 5 Commissioners of KIP Pidie Jaya for the 2013-2018 Period	IDR 104,953,0 00 (One Hundred Four Million Nine Hundred and Fifty Three Thousand Rupiah)	The value of the loss is relatively small, and it is not a quality case and the perpetrato r returned the state loss as a whole during the investigation process	(Muksalmina, 2021)

Nanggroe Aceh Darussalam Province			and was given an investigati on terminatio n warrant by the Pidie District Attorney's Office	
Alleged corruption in the procurement of crystal guava seeds in 2020 at the Agriculture and Food Security Office of Palangkaray a City, Central Kalimantan Province	Head of Food Security Named Yusianto	IDR 558,252,0 80 (Five Hundred Fifty Eight Million Two Hundred Fifty Two Thousand Eighty Rupiah)	The suspect returned state losses, there was no malicious intent in the suspect, and the lack of evidence ensnared the suspect, so the Palangkara ya District Prosecutor 's Office issued an Investigati on Termination Order	(Sahala, 2023)
Alleged corruption in the misappropri ation of the budget of Village Owned Enterprises (BUMdes) at the Village Community Empowerme nt Office, Southeast Maluku Regency, Maluku Province	No mention of the parties involved	IDR 80,000,00 0 (Eighty Million Rupiah)	The parties involved have returned the state's financial losses so that an Investigati on Terminatio n Order was issued by the Old District Prosecutor 's Office	(Tual News, 2019)

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Based on the explanation of the table above, there are 3 cases of corruption crimes that do not reach the court stage with the reasons mentioned previously plus the main reason, namely the perpetrators of corruption crimes consciously and voluntarily return state losses as the reason for the implementation of each prosecutor's office can provide relief to perpetrators who have returned state losses, especially if the state losses due to corruption crimes are relatively small. So that with the policy of returning state losses carried out by suspects when they stumble upon a corruption case, it refers to the theory of special criminal abolition, namely (Hamdan, 2012):

a. Afwezigheid van alle schuld (Avas): This principle has the meaning that "a person cannot be convicted (sentenced to criminal sanctions) if there is no fault in that person." Avas refers to the principle of geen straf zonder schuld (no criminal act without fault). So that this reason can be applied if indeed the perpetrator does not have a fault when the criminal act occurs even though his act meets the formulation of the delict therefore the perpetrator's criminal act can be abolished., the reason for the abolition of this crime is applied if the perpetrator of the criminal act has no fault at all when the criminal act occurs. If it is linked to the case table, then the reason for Avas cannot be used against the perpetrator because the perpetrator has clearly had a fault by being involved in the event of the corruption crime committed, namely by seeing that the perpetrator has violated the provisions of the formal and material offense because there is a real loss to the state as a result of the act of corruption itself which can be proven when determining the status of the suspected corruption as a criminal act corruption.
b. Absence of material unlawful nature: The reason for the abolition of this crime is applied if the perpetrator commits a criminal act as long as it does not contradict the applicable legal principles and the act committed is considered not a reprehensible act by the community. So that this reason is applied if the perpetrator of a criminal act meets the formulation of the offense regulated in the formal law (Law) but materially does not have any impact on the survival of the community so that the perpetrator's criminal act can be abolished as long as it does not contradict the applicable legal principles and is not a reprehensible act. If it is stated in the table of cases above, then of course the acts of corruption committed by the perpetrators are reprehensible acts in the eyes of the public and there are real state financial losses arising from the criminal acts of corruption committed by them,

and in criminal law there is a principle called "Culpa In Causa" which has the meaning that a person must remain responsible for his actions, because what he does is the result of his own actions (Utami & Heristiawan, 2022). So it can be concluded if there is The suspect of corruption whose criminal act is abolished only because he returns state losses due to his actions indirectly provides a sense of injustice to the community because his reprehensible acts should be given the heaviest sanctions and the consequences of his actions must be accounted for so that there is no room at all to be able to state that by returning state losses, the criminal liability of the suspect corruption crimes have been completed. As well as referring to the postulate "contra legem facit qui id facit quod lex prohibit in fraudem vero qui salvis verbis lefis sententiam ejus circumenit" which means that a person who is declared unlawful when the act committed is an act prohibited by law (Hiariej, 2016). Therefore when viewed through formal and material delicacies, it can be said that it is clear that the suspect has committed an unlawful act because the act he committed has potential losses countries and/or have actually occurred real state losses and in fact if seen in the formulation of the Law on the Eradication of Corruption Crimes, the formal offenses owned by the suspect have been written in the laws and regulations. So that there is no reason that can stop the criminal liability of a suspect in a corruption crime even though the person concerned has returned the state losses he has incurred to law enforcement officials such as the Attorney General's Office of the Republic of Indonesia.

Looking at the two reasons for criminal abolition that are special (Reasons for Criminal Abolition for criminal acts outside the Criminal Code). Both of them do not provide room for the abolition of corruption crimes by returning state losses because corruption crimes that have been real and clearly have state losses in them, then the criminal sanctions given cannot be abolished. In addition, if viewed from the perspective of restorative justice, of course, the elimination of criminal penalties for perpetrators of corruption crimes will not be effective in tackling corruption crimes, and can even provoke the birth of other perpetrators of corruption crimes and the ideals of the Corruption Eradication Law which is focused on providing sanctions that can have a deterrent effect on perpetrators of corruption crimes will never be achieved because with There is an understanding that the perpetrators of corruption crimes are only given punishment based on the return of state losses, then rationally the perpetrators of corruption crimes will

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commit acts of corruption because the probability of imposing witnesses is low, and even though the perpetrators' actions are successfully known by law enforcement officials, the sanctions given are very light sanctions because the perpetrators of crimes are only enough to recover state financial losses as a result of their actions. So that with the application of the restorative justice paradigm, no criminal sanctions are imposed on the perpetrators because the perpetrators are only asked to return state losses that occurred as a result of the crimes committed (Sulantoro, 2021). Then there is also the elimination of criminal penalties for perpetrators of corruption crimes that return state losses can provide reparation for perpetrators because it is enough to return the money from their corrupt acts and in the end their actions seem to disappear Just like that without any deterrent effect given to the perpetrator. And in accordance with the assumption that has been recognized by the public that corruption is a type of criminal act that can be classified as an "extraordinary crime" criminal act. Therefore, in handling it, at the stage of investigation and investigation, extraordinary measures must be carried out. This is intended to cause a deterrent effect on all community members, both businessmen, officials, and all other members of the community not to commit corruption crimes. Then if viewed based on the principle of justice (rechtsgevoel), moral or ethical norms, and moral norms that apply in society are enough to be a criterion that corruption is a form of unlawful action and a reprehensible act for society so that it is necessary to give the heaviest punishment for the perpetrators of corruption crimes. So when the reason for the return of state losses becomes a benchmark to remove the criminal act of a suspect in a corruption crime, it indirectly gives a sense of public distrust towards law enforcement officials who should be able to give severe punishment (sanctions) to the perpetrators of corruption crimes but protect the interests of the perpetrators under the pretext of "saving state losses". Then acts of corruption also endanger the moral and intellectual standards of the community, if the perpetrators of criminal acts of corruption (both heavy and light) are released just because they have returned the state losses they have caused, then it can make acts of corruption (both heavy and light) even more rampant because many think that "by returning state losses, it will not be criminally processed". So that there is no main value or glory in society when law enforcement given through punishment (sanctions) to the perpetrators of corruption crimes is not given expressly and fairly to the perpetrators of corruption crimes which in fact have harmed not only the country's finances or economy but also the people who feel

the impact of corrupt acts, a handful of people who have positions and positions that exist on them.

Interpretation Of The Meaning Contained In The Provisions Of Article 4 Of Law Number 31 Of 1999 In Conjunction With Law Number 20 Of 2001 Concerning The Eradication Of Corruption

The formulation of Article 4 of the Corruption Crime Law used by the state of Indonesia was only formulated and passed for the first time in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. Due to the limitations of reference sources that can be used as a reference to trace the preparation of the formulation of Article 4 of the Law on the Eradication of Corruption, the author will describe the opinions of experts and also other supporting documents that are references for the preparation of or also related to the formulation of Article 4 of the Law on the Eradication of Corruption. The essence of the formulation of Article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes has just been formulated in the law. The reason why article 4 was formulated into the Law on the Eradication of Corruption Crimes is as the basis for law enforcement of corruption crimes that harm state finances because when state financial losses have shifted or entered the realm of criminal law, the return of financial losses does not remove the criminal liability of the perpetrators of corruption crimes that harm state finances. The return of state financial losses committed by the perpetrators of corruption crimes is considered not to reduce the unlawful nature of the elements in Articles 2 and 3 of the Law on the Eradication of Corruption (Amrani et al., 2017).

However, the return of state financial losses carried out only serves as a factor or things that mitigate the defendant of corruption when submitted to trial. Article 4 of the Law on the Eradication of Corruption which emphasizes that the perpetrator of corruption who has returned state financial losses cannot remove the criminal liability that he has committed has the intention of providing a deep understanding to law enforcement officials that when a perpetrator of corruption has returned state financial losses, the return is seen as a factor that will mitigate The penalty to be imposed due to the nature of the violation of the rules in the elements of Article 2 and Article 3 of the Law on the Eradication of Corruption remains even though the state's financial losses have been recovered. In addition, when viewed sociologically, article 4 also wants to show that as a

result of corruption crimes that harm state finances, it has a wide and systematic impact on society, because it interferes with national development and causes socio-economic losses. So indirectly, article 4 of the Law on the Eradication of Corruption provides a view that criminal liability must still be maintained to provide a deterrent effect for perpetrators who not only harm the state's finances, but also the wider community because the budget that should be used for national development is constrained due to irregularities and/or violations of state financial management. Therefore, the formulation of Article 4 of the Law on the Eradication of Corruption wants to provide a view that whoever commits a mistake must receive punishment, whoever has stolen money must be punished, and who has committed a corruption crime, the refund of the proceeds of the corruption crime does not necessarily abolish the punishment for the crime committed but the refund of the proceeds of the corruption crime is only a condition for considering the severity or lightness of the criminal sanctions given to him when submitted to the trial stage (Indonesia Corruption Watch, 2015). With the formulation of Article 4 of the Law on the Eradication of Corruption Crimes, it is consistent with the characteristics of corruption crimes which are seen as one of the crimes that are "extraordinary crimes" which have a systematic and widespread impact on the life of the state and society. So, it can be said that Article 4 is based on the retributive (absolute) criminal theory which holds that if a person commits a criminal act, he must be punished for the crime he committed.

On the other hand, Article 4 of the Law on the Eradication of Corruption also contains norms on criminal liability. The lawmakers put the aspect of responsibility on acts that contain formal offenses, as can be seen from the sentence that states "the return of state financial losses does not eliminate them and punish the perpetrators". This means that here the consequences of criminal acts of corruption in the form of harming the State's finances do not make the elimination of unlawful nature in criminal acts of corruption (Ariwafa, 2023). In the application of the existence of Article 4 of the Law on the Eradication of Corruption, it can be seen in Decision Number 2/Pid.Sus-TPK/2021/PN.Plk in this case the defendant has returned state financial losses due to his corrupt acts of Rp. 241,500,000 (Two Hundred and Forty One Million Five Hundred Thousand Rupiah) of the total state financial losses of Rp. 1,058,393,031 (One Billion Fifty Eight Million Three Hundred Ninety Thirty Three Thirty One Rupiah) which was returned during the investigation to the Palangkara District Attorney's Office. Thus, in the consideration of the panel of judges, it was stated that "Considering, that since the crime of

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corruption is a formal offense, the refund of the money as mentioned above, does not cause the elimination of criminal liability committed by the defendant, but is a factor that mitigates the crime, as referred to in Article 4 of Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes" (Decision Number:2/Pid.Sus-TPK/2021/PN.Plk, p. 183).

From the description of the panel's consideration of the return of state financial losses made by the defendant in the decision, it can be said that the panel of judges gave a view on the return of state financial losses made by the defendant when the investigation was considered to be the good faith of the defendant in carrying out the fulfillment of the obligation to recover state financial losses as a result of the criminal act of corruption committed. So that the return of state financial losses is a determining factor that will ease the provision of criminal sanctions to the defendant. Therefore, the existence of Article 4 of the Law on the Eradication of Corruption which emphasizes the return of state losses as a matter that can alleviate criminal sanctions is a consideration in providing criminal sanctions to the perpetrators because they can reduce the criminal sanctions that will be given to them. So that the return of state financial losses or the state economy does not delete or stop the investigation of the case, but becomes one of the factors that mitigate the perpetrator when submitted to trial, with the aim that this provision can motivate the perpetrator to return the state finances to the maximum. Furthermore, this article is also regulated as a preventive measure in the eradication of corruption crimes because it can prevent someone from committing corruption crimes that are detrimental to the state's finances considering that if a person is arrested by law enforcement officials, the return of the state's financial losses does not remove the criminal responsibility of the perpetrators of corruption crimes which can create a deterrent effect, legal certainty and a sense of justice for the wider community.

Article 4 of the Law on the Eradication of Corruption essentially states that the restitution of state losses cannot abolish a person's conviction for committing a crime of corruption, but this restitution will be one of the things that lightens him when submitted to court. It should be emphasized that if the return of the proceeds of corruption is carried out voluntarily without any outside elements before the case is known to the public or law enforcement, then it cannot be used as a basis for prosecution (Masyarakat Pemantau Peradilan Indonesia, 2020). In determining the meaning of the provisions of Article 4 of the Law on the Eradication of Corruption, grammatical and authentic interpretation of the

law will be used by using analogies to perfect the meaning of Article 4 of the Law on the Eradication of Corruption. When looking specifically at Article 4 of Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes reads: "The return of state financial losses or the state economy does not abolish the conviction of the perpetrators of criminal acts as referred to in Articles 2 and 3." So if we use the grammatical interpretation of law which means that "the interpretation of law is based on the meaning of the words that are composed in the provisions of a legal regulation, with the note that the meaning of words that are common to the general public is used as the answer (Kartika, 2016). So specifically the article applies one of the legal principles of Culpa in Causa which means that "a person must remain responsible for his actions, because what he does is the result of his own actions (Hamdan, 1994). And by referring to the postulat "contra legem facit qui id facit quod lex prohibit in fraudem vero qui salvis verbis lefis sententiam ejus circumenit" which means that a person who is declared unlawful when the act committed is an act prohibited by law. For more deeply understand the meaning of Article 4 of the Law on the Eradication of Corruption by looking at several opinions/views from experts on the grammatical meaning of Article 4 of the Law on the Eradication of Corruption, including:

A. researcher from the Institute for the Study and Advocacy of Judicial Independence, Arsil stated that "the voluntary refund of corruption proceeds by the defendant is usually a reason for the judge to reduce the sentence. So, there is indeed a relevance between the return of corruption proceeds and the criminal sanctions imposed on the perpetrator On the one hand, the refund of corruption proceeds can be a reason for the judge to reduce the punishment for the perpetrator, but not abolish the sentence."
B. Mudzakkir stated that "the return of the proceeds of a crime is often associated with the time. If the return is made before the investigation begins, it is often interpreted as removing the criminal act committed by a person. However, if it is carried out after the investigation has begun, the return does not remove the criminal act. In my opinion, being returned before or after the investigation is still against the law. For example, I steal, then return the stolen item before anyone else knows. It's still a criminal offense, isn't it ?" (Akok, 2021)
C. Abdul stated that "If the crime of corruption has occurred, then it is processed and then the state losses are returned and the case is stopped, this is clearly

> contrary to article 4 of the Corruption Law which states that the return of state losses does not abolish the criminal act, the return of state losses only affects the amount of punishment that will be received" (Mukhtar & Hermawan, 2018)

So if a conclusion is drawn, the meaning of Article 4 of the Law on the Eradication of Corruption wants to say that if a person is declared a perpetrator of the crime of corruption, then returning state losses is not one of the reasons for the elimination of his criminal acts because he must still be legally responsible in society as a result of his actions that have violated the law and have fulfilled the elements of the crime in the provisions law, so that the return of his state losses is not one of the reasons why he is not sentenced by the state because he still has to be responsible in the eyes of the law. In addition, this is also the basis for law enforcement of corruption crimes to provide an affirmation that when state financial losses have shifted or entered the realm of criminal law, the return of financial losses does not remove the criminal liability of the perpetrators of corruption crimes that harm state finances, therefore the return of state financial losses made by the perpetrators before being submitted to trial does not reduce the unlawful nature in elements of Articles 2 and 3 of the Law on the Eradication of Corruption so that Article 4 is regulated as a preventive measure in the eradication of corruption because it can prevent a person from committing a corruption crime that harms the state's finances considering that the return of the state's financial losses does not remove the criminal liability of the perpetrator of the corruption crime (Robiana, 2022).

Therefore, by using grammatical legal interpretation, it has been concluded that the meaning of Article 4 of the Law on the Eradication of Corruption basically means that when a person has been declared a perpetrator in the act of corruption and returns the state losses he has caused, this cannot be a reference and/or a reason to abolish his criminal liability because he still has to Responsible for the crime of corruption committed by him to provide a deterrent effect as a form of criminal responsibility and a preventive step in eradicating corruption because it can prevent someone from committing a corruption crime. Then after looking through a grammatical interpretation of the meaning of Article 4 of the Law on the Eradication of Corruption, it will be seen through the point of view of authentic interpretation regarding the meaning of the existence of Article 4 of the Law on the Eradication of Corruption. If referring to the Explanation of Law Number 31 of 1999 Juncto Law Number 20 of 2001 which states that "In order to achieve a more effective goal of preventing and eradicating corruption, considering that corruption in

Indonesia occurs systematically and widely so that it not only harms the state's finances, but also violates the social and economic rights of the community at large, Therefore, the eradication of corruption needs to be carried out in an extraordinary way, in order to realize a just, prosperous, and prosperous Indonesia society, it is necessary to continuously improve efforts to prevent and eradicate criminal acts in general and corruption crimes in particular. So that in order to achieve legal certainty, eliminate diversity of interpretation, and fair treatment in eradicating corruption crimes, this Law is intended to replace Law Number 3 of 1971 concerning the Eradication of Corruption Crimes, which is expected to be able to meet and anticipate the development of community legal needs in order to prevent and eradicate more effectively any form of corruption that is very detrimental to the state's finances or the state economy in particular and society in general need to be added in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as a provision that is "premium remidium" and at the same time contains special provisions for civil servants as intended in Article 1 number 2 or for state administrators as referred to in Article 2 of Law Number 28 of 1999 concerning Clean and Free State Administrators from Corruption, Collusion, and Nepotism, not to commit corruption crimes." Therefore, if an authentic analysis is carried out, the purpose of the existence of the Law on the Eradication of Corruption is solely to provide a sense of justice and also law enforcement against the perpetrators of corruption crimes in order to realize an Indonesia that is clean from the practices of Corruption, Collusion, and Nepotism, so that a special legal provision is needed to prevent and eradicate corruption crimes in Indonesia, then the Eradication Law is issued Corruption Crimes. Furthermore, how to interpret the meaning of Article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, this can be seen in the explanation of the UUPTPK which states that "it is necessary to add in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as a provision that is 'premium remidium.' “ Referring to the explanatory phrase that has been quoted, it can be understood that criminal sanctions are sanctions that are prioritized in providing a deterrent effect to the perpetrators of crimes so that the perpetrators realize their mistakes and no longer repeat their criminal acts, therefore Article 4 of the Law on the Eradication of Corruption was formulated which states that "The return of state financial losses or the state economy does not abolish the conviction of the perpetrators of criminal acts as intended in Article 2 and Article 3." So that with the existence of Article 4, he wants to provide an affirmation that even though

the perpetrator has returned the state losses incurred as a result of his corruption crimes, he will still not be free from the snares of corruption criminal sanctions in the Law on the Eradication of Corruption as a result of the application of the principle of "Primium Remedium" used in the law. Therefore, if an authentic analysis is carried out, the purpose of the existence of the Law on the Eradication of Corruption is solely to provide a sense of justice and also law enforcement against the perpetrators of corruption crimes in order to realize an Indonesia that is clean from the practices of Corruption, Collusion, and Nepotism, so that a special legal provision is needed to prevent and eradicate corruption crimes in Indonesia, then the Eradication Law is issued Corruption Crimes. Furthermore, how to interpret the meaning of Article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, this can be seen in the explanation of the Law Number 31 Of 1999 in conjunctuion with Law Number 20 of 2001 Eradication Law Of Corruption Crimes which states that "it is necessary to add in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as a provision that is 'premium remidium.' “

Referring to the explanatory phrase that has been quoted, it can be understood that criminal sanctions are sanctions that are prioritized in providing a deterrent effect to the perpetrators of crimes so that the perpetrators realize their mistakes and no longer repeat their criminal acts, therefore Article 4 of the Law on the Eradication of Corruption was formulated which states that "The return of state financial losses or the state economy does not abolish the conviction of the perpetrators of criminal acts as intended in Article 2 and Article 3." So that with the existence of Article 4, he wants to provide an affirmation that even though the perpetrator has returned the state losses incurred as a result of his corruption crimes, he will still not be free from the snares of corruption criminal sanctions in the Law on the Eradication of Corruption as a result of the application of the principle of "Primium Remedium" used in the law.

CONCLUSION

The return of state losses as a reason for the abolition of the crime given to the perpetrators of corruption crimes that return state financial losses cannot be used as a reason for the abolition of corruption crime, this is because if we review based on reason for the abolition of a special crime, namely Afwezigheid van alle schuld (Avas) which is basically the same as the principle of criminal law "Geenstraff Zonder Schuld" which

means that there is no crime without a direct fault has been dropped because the perpetrator's act is included as an act that is considered a violation of the provisions of the law and against material law which considers that the act must be viewed as an act that is in accordance with the morals and ethics of the community, even though formally the act is seen as a criminal act, it can be said that it does not meet these requirements, because the community considers that corruption is an act that damages a person's ethics and morals so that the reason for the abolition of a crime on the grounds of material violation of the law becomes null and void. So that the perpetrators of corruption crimes who return state financial losses as the basis for removing the crimes given to the perpetrators cannot be used as a reason for the elimination of corruption crimes committed.

The interpretation of the meaning of the provisions stipulated in Article 4 of Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes means that the return of state financial losses will not abolish the provision of criminal sanctions that will be given to the perpetrators of corruption crimes, on the contrary, the return will be a reference for the panel of judges in determining the severity or lightness of the criminal sanctions that will be given to the perpetrators. So by looking at the meaning contained in the provisions of Article 4 of the Law on the Eradication of Corruption, law enforcement agencies should obey the provisions contained in Article 4 of the Law on the Eradication of Corruption in taking action against perpetrators of corruption who return state financial losses so that it does not become a reason for the abolition of criminal acts committed because of the meaning of the provisions regulated in Article 4 of the Eradication Law The Crime of Corruption has provided an explanation that the return of state financial losses is only a reference for the panel of judges in determining the severity or lightness of the criminal sanctions to be given to the perpetrators and is not a reason to abolish the criminal act.

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