

LEGITIMACY OF THE PROSECUTOR'S AUTHORITY IN INVESTIGATION ON CRIMINAL ACTS OF CORRUPTION

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Abstract

The legal basis for the Prosecutor's Office in carrying out its Investigative Authority on Corruption Crimes is basically: Law Number 16 of 2004 concerning the Prosecutor's Office, Law Number 31 of 1999 concerning Eradication of Corruption Crimes based on Law Number 20 of 2001 concerning Amendments to the Law Law Number 31 of 1999 concerning Eradication of Corruption Crimes, and the Criminal Procedure Code. Normatively, the relationship with the prosecutor's authority is regulated in Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. Based on Article 1 paragraph 1 of Law Number 16 of 2004 concerning the Attorney General of the Republic of Indonesia, it is stated that the Prosecutor is a functional official authorized to act as a public prosecutor and executor of court decisions that have obtained coercion and other powers based on law. In terms of exercising the authority of corruption crimes, based on Article 30 of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, the duties and powers of the Attorney General include: Paragraph 1 letter d To investigate certain criminal acts based on laws and letters e. The implementation of investigative authority by the prosecutor's office against the perpetrators of corruption in the jurisdiction of the Indramayu State Prosecutor's Office, West Java Province. there is an allegation of a criminal act of corruption, in essence, the procedure is carried out in accordance with the provisions determined by the Criminal Procedure Code which are based on Articles 183 and Article 184 concerning the acquisition of evidence to prove the existence of a crime. . The implementation of this process is adjusted to the implementation of procedures, functions and duties of the Indramayu District Attorney

Keywords : Authority of the Prosecutor, Corruption Crime Investigation

INTRODUCTION

Since the reformation era that began in 1998, regarding the administration of state administration in Indonesia, politically it is an era marked by a total change in the system of administration of state administration and governance based on the will of the people who want the establishment of the rule of law, human rights and democracy, and accelerated development that is oriented towards improving welfare. people, as well as the eradication of Corruption, Collusion, and Nepotism as a whole. Furthermore, in the reform era, the State issued Law Number 31 of 1999 concerning the Eradication of Corruption. Substantially, Law Number 31 of 1999 gives priority to handling corruption offenses from general criminal cases, so that they are immediately submitted to the District Court.

In order to make law enforcement more effective in eradicating corruption, legal products are needed that give authority to institutions that provide more authority in the form of laws and regulations as needed. Institutions that have the authority can carry out their responsibilities based on a legal system approach to take efforts and actions to eradicate corruption, including the Prosecutor's Office in the form of investigations (Indonesia, 2001).

Law enforcement efforts, legal investigations carried out by civil servant investigators (PPNS Prosecutors), and the quality, professionalism, and validity of the results of the investigation, especially in the inclusion of evidence, can have a major influence on the prosecution process and the judicial process (Polontalo, 2018).

Based on Law 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Article 30 Paragraph (1) point d, the duties and authorities of the Prosecutor's Office are; "To carry out an investigation into certain criminal acts based on the law".

Furthermore, in the explanation of Law 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, it is stated; "The authority in this provision is the authority as regulated for example in Law Number 26 of 2000 concerning Human Rights Courts and Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 jo. Law Number 30 of 2002 concerning the Corruption Eradication Commission" (Nomor, 8 C.E.) (Luntungan, 2013).

In carrying out its functions, duties, and authorities, the prosecutor's office also has the authority to investigate certain criminal acts. The authority is regulated in the law, among others, namely; Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended based on Law Number 20 of 2001, and Law Number 30 of 2002 concerning the Commission for the Eradication of Criminal Acts of Corruption, is set forth in the explanation of Law Number 16 of 2004 About the Prosecutor's Office of the Republic of Indonesia (Jaseh, 2022).

METHOD RESEARCH

The method used in writing this applied paper is the descriptive analytical method, namely by using data that clearly describes the problems directly in the field, then analyzing and concluding to reach a problem solution. The method of collecting data is through observation and literature study to obtain problem-solving in the preparation of this paper.

A normative juridical approach, which means that in this study the main materials studied are primary legal materials, secondary legal materials, and tertiary legal materials.[4] The data that has been obtained, then processed, and then analyzed qualitatively is done by describing the data generated in the form of a descriptive sentence or explanation. From the data analysis, it is continued by drawing conclusions inductively, a way of thinking based on general facts, then proceeding with specific conclusions which are the answers to the problems based on the results of the research, and then suggestions are given.

RESULT AND DISCUSSION

A. Corruption Crime

Corruption in general is the behavior of a small number of members of society who take refuge behind certain authorities or powers that can be associated with office power which can be found everywhere in various state bureaucracies in the world. History proves that almost every country is faced with the problem of corruption, and the solution is never finished (Suriyanto, 2018).

"The word corruption comes from the Latin *corruptio* or *corruptus*, which is further stated that *corruptio* comes from the original word *corrumpere*. From Latin, it developed into many languages such as English, namely *corruption*, *corrupt*; France, namely *corruption*; and Dutch, namely *corruptie* (*korruptie*), and became Indonesian, namely "corruption" (Winata, 2019).

Understanding in Indonesian the term "Corruption" literally means evil or rotten (Saifuddin, 2017). Rottenness, ugliness, depravity, dishonesty, bribery, immorality, deviation from chastity. According to the Dutch-Indonesian General Dictionary, "Corruption includes improper activities related to power, government activities, or certain efforts to obtain improper positions, as well as other activities such as bribes".

The legal basis that regulates the eradication of corruption is as follows:

1. Law Number 8 of 1981 concerning Criminal Procedure Law.
2. Law Number 28 of 1999 concerning the Implementation of a Clean and Free State from Corruption, Collusion, and Nepotism.
3. Law Number 31 of 1999 concerning the Eradication of Corruption Crimes.

4. Government Regulation Number 71 of 2000 concerning Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption Crimes.
5. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption.
6. Law Number 30 of 2002 concerning the Corruption Eradication Commission.
7. Law Number 8 of 2010 concerning the Crime of Money Laundering.
8. Law Number 46 the Year 2009 concerning Corruption Courts.

The elements of criminal acts of corruption are based on Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, in essence, the main elements of criminal acts of corruption are; Various modus operandi of irregularities against state finances or the state economy as regulated under Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, including elements of "acts of enriching oneself" or other people or corporations "unlawfully" in the formal and material sense (Sulistiyono, 2019).

Based on the law, the criminal act of corruption is clearly formulated as a formal crime. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is basically the legal basis for eradicating corruption in Indonesia. The formulation of criminal acts of corruption contained in the Act is regulated in several articles, the complete formulation of which includes the following:

1. Illegally Enriching Yourself/Others.
2. Abuse of Authority, Opportunity, or Facilities.
3. Bribing Civil Servants or State Administrators.
4. Bribing Judges and Advocates.
5. Cheating
6. Embezzlement in Occupation.
7. Counterfeiting Books or Special Registers of Administrative Examination.
8. Embezzle, Destroy, Destroy Stuff.

The institutions that have the authority to investigate Corruption Crimes are;

1. Police Investigator.
2. Prosecutor's Investigator.
3. Investigator of the Corruption Eradication Commission.

B. Legal Basis Legitimacy of the Prosecutor's Authority to Conduct Investigations Against Corruption Perpetrators

The legal basis for the prosecutor's authority in conducting investigations against perpetrators of criminal acts of corruption is basically:

1. Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.
2. Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption based on Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption.
3. KUHAP.

The legal basis for this authority is normatively related to the authority of the prosecutor's office in conducting investigations against perpetrators of criminal acts of corruption regulated by Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

Based on Article 1 point 1 of Law Number 16 of 2004 concerning the Prosecutor's Office, it is stated that the Prosecutor is a functional official who is authorized by the law to act as a public prosecutor and implementer of court decisions who have obtained legal force and other powers based on the law (Budiman, 2017). Meanwhile, Article 2 point 1 of Law Number 16 of 2004 concerning the Prosecutor's Office states that the Prosecutor's Office of the Republic of Indonesia is a government institution that exercises state power in the field of prosecution and other authorities based on law.

In Indonesia, the Prosecutor's Office is one of the law enforcement agencies whose position is within the government's authority which functions to carry out state power in the field of prosecution based on Article 2 paragraph (1) of Law No. -law.

Prosecutors' functions include:

"Preventive and repressive aspects in criminal matters as well as State Lawyers in Civil and State Administration. Preventive aspects, in the form of increasing public legal awareness, securing law enforcement policies, securing circulation of printed materials, monitoring the flow of beliefs, preventing abuse and/or blasphemy of religion, research, and the development of criminal law and statistics.

The repressive aspect is carrying out prosecutions in criminal cases, carrying out judges' decisions and court decisions, supervising the implementation of conditional release decisions, and completing certain case files originating from Polri Investigators or Civil Servant Investigators (PPNS).

Based on Article 1 point 6 of Law Number 8 of 1981 concerning the Criminal Procedure Code:

1. Prosecutors are officials who are authorized by this law to act as public prosecutors and carry out court decisions that have permanent legal force.
2. Public prosecutors are prosecutors who are authorized by this law to carry out prosecutions and carry out judges' decisions.
3. The Prosecutor's Office has a position as a government institution that exercises state power independently and inseparable, especially the implementation of duties and authorities in prosecuting and carrying out court decisions, and has the duty and authority to conduct investigations and investigations on certain criminal acts based on the law.

Duties and Authorities of the Prosecutor's Office as the bearer of state power in the field of prosecution, the Prosecutor's Office carries out criminal prosecutions, in addition to having the authority to conduct investigations into certain criminal acts, among others; investigation of perpetrators of criminal acts of corruption as regulated under Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, letter d.

Based on Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the duties and authorities of the Prosecutor's Office are:

In the criminal field, the prosecutor's office has the following duties and authorities:

1. Do prosecution (Budianto, 2015).
2. Carry out judges' decisions and court decisions that have permanent legal force.
3. Supervise the implementation of conditional criminal decisions, supervisory criminal decisions, and parole decisions.
4. Conduct investigations into certain criminal acts based on the law.
5. Completing certain case files and for that purpose can carry out additional examinations before being transferred to the court which in its implementation is coordinated with investigators (Mulyadi, 2004).

The authority of the Prosecutor in the Investigation of Certain Crimes is to carry out

legal actions as referred to in Article 1 point 2 of Law Number 8 of 1981 concerning the Criminal Procedure Code or abbreviated as KUHAP, that; An investigation is a series of actions by an investigator in terms of and according to the method regulated in this law to seek and collect evidence which with that evidence makes clear about the criminal act that occurred and to find the suspect .

The authority to investigate certain criminal acts is regulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The authority of the Prosecutor's Office to conduct investigations is based on Article 30 of Law Number 16 of 2004 concerning the Prosecutor Office, it is stated that the Prosecutor's Office has the authority to conduct investigations into certain criminal acts based on the law. This is the legal legitimacy of the authority of the Prosecutor's Office granted by Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 and Law Number 30 of 2002 concerning the Corruption Eradication Commission, Article 26, that; The Prosecutor's Office is authorized as an investigator in cases of criminal acts of corruption which confirms that: "Investigations, prosecutions, and examinations in courts of corruption crimes are carried out based on the applicable criminal procedural law, except as provided for in this law (Putri & Raharjo, 2022).

Thus, it is clear that the authority of the Prosecutor's Office as investigators and prosecutors in corruption cases is not controlled or controlled by anyone in the Indonesian criminal justice system. Therefore, the meaning of Article 26 regarding the investigation and prosecution of criminal acts of corruption by the Prosecutor's Office is clear and correct (Yuliardi, 2021).

Based on Article 26 concerning the investigation and prosecution of criminal acts of corruption by the Prosecutor's Office of the law, then that the Prosecutor has the authority to conduct investigations, including the investigation of certain criminal acts based on the law, in this case against perpetrators of criminal acts of corruption. In addition to the prosecutor having authority to conduct investigations and investigations, the prosecutor also has the authority to prosecute corruption criminal cases as stipulated in Article 30 paragraph (1) letter an of Law number 16 of 2004 concerning the Prosecutor's Office and paragraph (1) letter d. it is stated and it is clear that the authority of the Prosecutor is to carry out investigations and prosecutions as well as examinations in court proceedings against certain criminal acts referred to as special crimes regulated outside the Criminal Code .

Therefore, the Prosecutor has the authority to conduct investigations into certain criminal acts as has also been explained above in Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office, in this case includes the authority to investigate criminal acts of corruption sa (Gultom, 2019).

CONCLUSION

The Legal Basis of the Prosecutor in Carrying Out Investigation Authorities Against Criminal Acts of Corruption in essence, namely: Law Number 16 of 2004 concerning the Prosecutor's Office, Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended based on Law Number 20 of 2001 concerning Amendments On Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, and the Criminal Procedure Code.

In essence, the authority of the Prosecutor's Office to conduct investigations against perpetrators of criminal acts of corruption is based on Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office that the duties and authorities of the Prosecutor's Office, namely: Paragraph 1 letter d, conduct investigations into certain criminal acts.

The application of the investigative authority carried out by the Prosecutor against the

perpetrators of criminal acts of corruption on the suspicion of criminal acts of corruption is essentially a procedure carried out following the provisions determined by the Criminal Procedure Code which is based on Article 183 and Article 184 regarding the acquisition of evidence to prove the existence of a criminal act.

Given the increasing incidence of criminal acts of corruption, the prosecutor's office should continue to improve the coordination strategy with the Corruption Eradication Commission (KPK), so that the prosecutor's efforts in eradicating Corruption Crimes are more efficient and effective.

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Ahmad Sukoco, Darwati
(2023)

First publication right:
Injurity - Interdisciplinary Journal and Humanity



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