



## Legal Analysis of Criminal Acts of Corruption of Livestock Budget (Study of Decision No.3038 K/Pid.Sus/2021)

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**Abstract:** One of the crimes that is always in the spotlight in Indonesia is the problem of corruption. Corruption is no longer a foreign thing in this country. Indonesian corruption is even classified as an extraordinary crime because it has damaged not only state finances and the country's economic potential, but has also destroyed the pillars of socio-cultural, moral, political and legal security of Indonesia. As happened in the decision Number 3038 K / Pid.Sus / 2021, which stated that there had been a criminal act of corruption in the grant activity budget of the East Java Provincial Animal Husbandry Service in 2016, which was carried out by the Defendant IMAM HANAFI, SE bin MUCHAMAD HABIB. The empirical normative method is the method applied in this research where this method is carried out through research activities on reading materials and directly reviewing the objects being studied. The application of Article 2 Paragraph 1 of the Corruption Eradication Law in Decision Number 3038 K/Pid.Sus/2021 to the Defendant IMAM HANAFI, Se is in accordance with the fact that the defendant is a person assigned by the East Java Provincial Animal Husbandry Service to coordinate 5 Groups that will receive grant funds to buy livestock. That the judge in deciding the case considered that the defendant's actions had fulfilled the elements of a crime in Article 2 paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption.

**Keywords:** Livestock Budget, Corruption Crime, Decision No. 3038/K/Pid.Sus/2021.

### 1. Introduction

In this modern era, more and more people are deliberately violating the human rights of other human beings, without considering age as a limit or benchmark for actions that violate norms, legal rules and human rights.(Ruslan Renggong, Ruslan, & SH, 2021),(Student, 2023). Indonesia is a country of law that has implemented it in community life. Therefore, every action that is carried out has value before the law.(Nainggolan, 2023). However, with the advancement of the times, the types of legal violations and their diversity in society have increased.(Chaniago, Butar-Butar, Aritonang, Sirait, & Ry, 2023).

A law certainly has the aim of creating a sense of justice in society, therefore in creating this sense of justice, it is of course up to law enforcement officers to enforce this criminal law in society in accordance with its initial ideals during the drafting process in the legislative council.(Zein, 2020),(Ferine, 2023),(Acrom, nd). One of the crimes that is always in the spotlight in Indonesia is the problem of corruption. Corruption is no longer a foreign thing in this country. Indonesian corruption is even classified as an extraordinary crime or extraordinary crime because it has damaged, not only the state's finances and the country's economic potential, but has also destroyed the pillars of social culture, morals, politics and the legal order of Indonesian security.(Fiter, Sahari, & Mansar, 2024),(Saputra & Firmansyah, 2023).

Article 2 Paragraph 1 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 explains that any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state

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economy.(Pasmatuti, 2019),(Pusparini, Dewi, & Widyantrara, 2020). Furthermore, Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 also explains Corrupt Behavior Through Abuse of Authority(Syamsuddin, 2020),(Princess, 2021).

Corruption is a crime that deserves special attention from the government, because Indonesia is one of the most corrupt countries in the world. Corruption is one of the extraordinary crimes, so it must receive special attention.(Rosikah & Listianingsih, 2022),(Daniel, 2021). Corruption crimes have specific regulations, namely in the Republic of Indonesia Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (Law No. 20/2001). Law enforcement is needed to provide legal protection for the community. His actions can be considered fraud or lying to the public or seeking profit alone(Suryanto, 2021),(Ariyanti & Ariyani, 2020).

The word 'mode' is no longer foreign in criminal acts, especially corruption. Often there is a modus operandi in grant funds themselves, especially in grant funds, the modus operandi can run(Mardiana & Mardijono, nd),(WARANINGTYAS, 2022),(WARDANI, 2023). The mode through grant funds has many loopholes for individuals who do it, because this is an opportunity for individuals to misuse funds for the benefit of interested parties. Misuse of grant funds such as bribery, abuse of authority, and also trading in influence(October, 2021),(Umar, Purba, Safaria, Mudiar, & Sariyo, 2021).

As happened in decision Number 3038 K/Pid.Sus/2021, which stated that there had been a criminal act of corruption in the grant activity budget of the East Java Provincial Animal Husbandry Service in 2016, which was carried out by the Defendant IMAM HANAFI, SE bin MUCHAMAD HABIB. The criminal act of misappropriation of the grant activity budget of the East Java Provincial Animal Husbandry Service was carried out by 4 people, namely the Defendant IMAM HANAFI, SE bin MUCHAMAD HABIB, witnesses Choirul Firmansyah, Roki Wardoyo, and Setyo Wahyudi which caused a state loss of Rp870,000,000 (eight hundred and seventy million rupiah).

## 2. Materials and Methods

### 2.1 Theoretical Framework

It is a basis for thinking or points of opinion that are based on a hypothesis or theory that has a problem object that is used as a reference comparison and tool for analyzing a problem.

### 2.2 Conceptual Framework

Legal Analysis is one of the important instruments in the study of positive law. The study has a function as a balancer and supervisor of the legal norms themselves. The form of balance and supervision of legal norms through legal institutions, namely, judicial review (judicial), legislative review (legislative), and executive review (executive).

#### a. Corruption Crime

Meanwhile, Baharudin Lopa, citing David M. Chalmen's opinion, describes the term corruption in various fields, namely those concerning bribery, those related to manipulation in the economic field, those concerning the public interest, this is taken from the definition "Financial manipulations and deliction injurious to the economy are often labeled corrupt.

#### b. Budget

According to M. Nafarin, a budget is a written plan regarding the activities of an organization which is expressed quantitatively for a certain period of time and is generally expressed in monetary units.

### 2.3 Types and Nature of Research

Empirical Normative Method is a method applied in this research where this method is carried out through research activities on reading materials and directly reviewing the

objects being studied. This research is descriptive qualitative, namely research with a study through primary legal data, namely laws and regulations, then linked to legal theory and connected to the topic of the problem formulation made.

#### **2.4 Source of Legal Material**

There are two sources used in this research, namely primary and secondary materials, namely from books, journals, laws and regulations. These sources include: (a) Primary Legal Material: Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, (b) Secondary Legal Material: is legal material collected through study activities on readings including books and journals as well as laws and regulations that have a correlation with the topic of discussion. (c) Legal Materials Tertiary: is a source that comes from readings that contain definitions of legal instruments in this research, for example: KBBI and Encyclopedia.

#### **2.5 Data collection technique**

The data collection technique applied in this research is the library technique, namely the data collection technique through existing legal material sources, both primary, secondary, and tertiary, including regulations, opinions of legal experts, journals, interviews with subjects in the research object location.

#### **2.6 Data analysis**

In a study, of course, it requires a study technique to analyze an existing problem, the data analysis technique applied in this research is qualitative analysis, namely a method by analyzing data from general characteristics to produce data with special characteristics. In analyzing it, it refers to the definition and facts of events that are general in nature.

### **3. Results and Discussion**

#### **3.1. Implementation of Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in decision number 3038 K/Pid.Sus/2021**

Fundamentally, the responsibility for overcoming corruption is the authority of law enforcement, starting from the Police, Prosecutors, and ending with the Court through a Judge's decision. That an act can be prosecuted criminally if it meets the requirements stipulated in the laws and regulations and meets the characteristics of the crime listed in the article, and criminal responsibility is placed at the time of this crime. Corruption has become a real threat to the continuity of the state. For a long time, acts of corruption have been one of the destroyers of the state order from within. With its long-standing condition, instead of disappearing or decreasing, corruption has recently become increasingly rampant.

Corruption is a crime that in its implementation is always carried out together, this is because corruption is a crime that concerns social, economic and political status. Often the perpetrators of corruption come from government officials who hold high positions and have the power to influence others to commit a crime. The increase in perpetrators of corruption that cannot be controlled can bring disaster, not only to the life of the national economy, but also to the life of the state and nation as well.

As explained in its decision, the Panel of Judges granted the cassation filed by the Public Prosecutor, where in the previous 2 decisions, namely at the Surabaya District Court and the Surabaya High Court, the Primary charge that had been filed by the Public Prosecutor (JPU) on the basis that the Defendant IMAM HANAFI, SE did not fulfill the elements of the article that had been charged so that the Subsidiary charge that would be proven. The Primary charge charged to the Defendant SYAIFUL AIDY, SH, namely Article 2 paragraph 1 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 paragraph (1) ke-1 of the Criminal Code.

Article 2 paragraph (1) of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (UU PTPK) stipulates: "Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy, shall be punished with imprisonment of. Furthermore, the explanation of the article explains that what is meant by "unlawfully" in this article includes unlawful acts in the formal sense as well as in the material sense, namely even though the act is not regulated in statutory regulations, if the act is considered reprehensible because it is not in accordance with the sense of justice or norms of social life in society, then the act can be punished.

In its later development, the interpretation of 'against the law' in the material sense with a positive function, namely expanding the scope of the formulation of the crime, was again questioned and refuted. In the Constitutional Court (MK) Decision No. 003/PUU-IV/2006, dated July 25, 2006, the Constitutional Court considered that the explanation of Article 2 paragraph (1) was contrary to the 1945 Constitution, because it created legal uncertainty. The Constitutional Court was of the view that Article 28 D paragraph (1) protects the constitutional rights of citizens to obtain certain legal guarantees and protection - in criminal law translated as the principle of legality. This principle demands that the formulation of an act, so that it can be considered a criminal act, must first be stated in written regulations.

In the practice of law enforcement to eradicate corruption today, the concept of 'against the law' is no longer understood as a means. The existence of the Criminal Code ensnares perpetrators of fraud as regulated in Article 378 of the Criminal Code as a deterrent effect given to a perpetrator.

The application of Article 2 Paragraph 1 of the Corruption Eradication Law in Decision Number 3038 K/Pid.Sus/2021 to the Defendant IMAM HANAFI, SE is in accordance with the fact that the defendant was assigned by the East Java Provincial Animal Husbandry Service to coordinate 5 Groups that would receive grant funds to buy livestock where after the defendant only disbursed 40% of the funds, and the rest was used by the defendant for personal interests, resulting in a state financial loss of IDR 870,000,000 (Eight Hundred Seventy Million Rupiah). The inclusion of Article 55 of the Criminal Code submitted by the Public Prosecutor (JPU) in the indictment and charges against the Defendant IMAM HANAFI, SE which was then juxtaposed with Article 2 Paragraph 1 of Law Number 31 of 1999 concerning the Eradication of Corruption in conjunction with Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is proven by the fact that the Defendant IMAM HANAFI, SE has collaborated with Witnesses ROKI WARDYO, CHOIRUL FIRMANSYAH, and SETYO WAHYUDI by creating, collecting, submitting, implementing grants to making accountability reports for Grant Fund projects in the 2016 budget year which will then provide benefits to the Defendant IMAM HANAFI, SE and the other witnesses mentioned above.

### ***3.2 Judge's considerations in deciding case number 3038/K/Pid.Sus/2021***

#### ***Case Position***

That according to the statements of the witnesses and the defendant's statement connected with the evidence in the trial which each supports the other, it was obtained the fact that the Defendant together with Witness Roki Wardoyo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi who were tasked with coordinating 5 (five) groups in receiving aid funds or grants for the purchase of livestock in the 2016 Budget Year, then it turned out that the Defendant arranged or coordinated with Witness Roki Wardoyo and Witness Choirul Firmansyah and Witness Najib Zakaria for the distribution of aid funds of 40% (forty percent) while 60% (sixty percent) was used by the De-

fendant together with Witness Roki Wardoyo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi.

That after the aid funds were disbursed, the Defendant distributed 60% (sixty percent) together with Witness Roki Wardoyo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi in an unlawful manner which resulted in a financial loss to the State cq. East Java Provincial Government of Rp870,000,000.00 (eight hundred and seventy million rupiah) so that the actions of the Defendant together with Witness Roki Wardoyo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi have enriched themselves or others, namely Witness Roki Wardayo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi which has harmed state finances.

That thus the aid funds were not used in accordance with their intended use by the Defendant and the Defendant without any rights and authority had prepared, submitted a proposal and complete the administration so that the aid funds were disbursed in full, however the Defendant made a fictitious accountability report as if in accordance with the activities proposed in the proposal and used the aid funds for the personal interests of the Defendant together with Witness Roki Wardoyo, Witness Choirul Firmansyah, and Witness Setyo Wahyudi.

### ***3.3 Judge's Considerations***

Legal That the judge in deciding the case considered that the defendant's actions had fulfilled the elements of a crime in Article 2 paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code, therefore the defendant has been proven guilty and sentenced to a criminal penalty.

That the judge in deciding the case considered that there were sufficient reasons to grant the cassation request from the Applicant/Public Prosecutor and to annul the Decision of the Corruption Crime Court at the Surabaya High Court Number 9/PID.SUS-TPK/2021/PT.SBY dated April 12, 2021 which amended the Decision of the Corruption Crime Court at the Surabaya District Court Number 60/Pid.Sus-TPK/2020/PN.Sby dated January 29, 2021.

In Decision Number 3038 K/Pid.Sus/2021 to the Defendant IMAM HANAFI, SE, the author is of the opinion that the Judge was right and in accordance with the fact that the defendant was someone assigned by the East Java Provincial Animal Husbandry Service to coordinate 5 Groups that would receive grant funds to buy livestock, where after the defendant only disbursed 40% of the funds, and the rest was used by the defendant for personal interests, resulting in a state financial loss of IDR 870,000,000 (Eight Hundred and Seventy Million Rupiah). The inclusion of Article 55 of the Criminal Code submitted by the Public Prosecutor (JPU) in the indictment and charges against the Defendant IMAM HANAFI, SE which was then juxtaposed with Article 2 Paragraph 1 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is proven by the fact that the Defendant IMAM HANAFI, SE has collaborated with Witnesses ROKI WARDYO, CHOIRUL FIRMANSYAH, and SETYO WAHYUDI by creating, collecting, submitting, implementing grants to making accountability reports for Grant Fund projects in the 2016 budget year which will then provide benefits to the Defendant IMAM HANAFI, SE and the other witnesses mentioned above.

The judge in his verdict was as follows: (a) Granting that the defendant IMAM HANAFI, SE bin MUCHAMAD HABIB has been proven legally and convincingly guilty of committing the crime of "Corruption together and continuously"; (b) Sentencing

the Defendant IMAM HANAFI, SE bin MUCHAMAD HABIB therefore with a prison sentence of 5 (five) years and a fine of Rp. 200,000,000.00 (two hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with a prison sentence of 6 (six) months; (c) Imposing an additional penalty on the Defendant to pay compensation of Rp. 80,000,000.00 (eighty million rupiah), if the Convict does not pay compensation within a maximum of 1 (one) month after the court decision has obtained permanent legal force, then his assets can be confiscated by the Prosecutor and auctioned to cover the compensation, in the event that the Convict does not have sufficient assets to pay the compensation.said, then the perpetrator shall be punished with imprisonment for 6 (six) months; (d) Determine that the period of detention served by the Defendant is deducted in full from the sentence imposed;(e) Determine that the Defendant be detained;(f) Establishing evidence in the form of:

Evidence Number 1 to Number 50 in full as stated in the Decision of the Corruption Crime Court at the Surabaya District Court Number 60/Pid.SusTPK/2020/PN.Sby dated January 29, 2021;

Returned to the Blitar District Attorney's Office Investigator to be used in other cases; - Evidence Number 51 in full as stated in the Decision of the Corruption Court at the Surabaya District Court Number 60/Pid.Sus-TPK/2020/PN.Sby dated January 29, 2021; Deposited into the State Treasury; 7. Charge the Defendant to pay court costs at the cassation level of Rp2,500.00 (two thousand five hundred rupiah).

#### 4. Conclusions

That the regulation regarding criminal acts of corruption regulated in Law Number 31 of 1999 Juncto Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption cannot be said to be optimal and needs much improvement, especially in terms of law enforcement. And what needs to be emphasized in the law is especially regarding the replacement money imposed on perpetrators of criminal acts of corruption, because the sanction for providing this replacement money is an effort to save and return state money that has been corrupted and is an effort to impoverish perpetrators of corruption so that this will deter corruptors and prevent other potential perpetrators from committing criminal acts of corruption.

That from the case analysis of decision No.3038/K/Pid.Sus/2021, basically the prosecutor's demands are very appropriate and the evidence is in accordance with the elements of the Corruption Eradication Law, and the supreme court judge in issuing the decision seemed to support efforts to save and return state finances, this can be seen in the judge's considerations that granted the cassation from the Public Prosecutor which was previously rejected by 2 courts, namely the Surabaya District Court and the Surabaya High Court.

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