

## **Juridical Study Determining the Implementation of the Corruption Eradication Article Based on Sema Number 7 of 2012**

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### **Abstract**

*This research uses a normative legal research method which discusses changes in the provisions on the value of state financial losses in cases of criminal acts of corruption based on the Supreme Court Circular Letter (SEMA). SEMA Number 7 of 2012 states that state financial losses are above Rp. 100,000,000.00 can be subject to Article 2 paragraph (1) UUPTPK, while losses below that figure are subject to Article 3 UUPTPK. However, due to changes in currency values, SEMA Number 3 of 2018 changed the loss limit to IDR. 200,000,000.00. If the value of state losses is above Rp. 200,000,000.00, then Article 2 paragraph (1) UUPTPK applies, while losses are below or up to Rp. 200,000,000.00 applies to Article 3 UUPTPK. This change aims to provide legal certainty and make it easier for law enforcement officials to determine the articles that are suspected of committing criminal acts of corruption. Apart from that, this revision is an effort by the Supreme Court to eliminate the alleged practice of buying and selling articles in handling corruption cases. According to researchers, if there are no provisions for this change, the application of law in Indonesia will be ineffective because law functions to create order, justice and legal certainty in state life.*

**Keywords:** *SP3 (Order to Stop Investigation), Traffic Accidents, Victims;*

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## **INTRODUCTION**

The term corruption comes from a word in Latin, namely *corruptio* or *corruptus*, which has been copied into various languages (Indra et al., 2023). For example, in English it is copied into *corruption* or *corrupt* in French it becomes *corruption* and in Dutch it is copied into the term *corruptie*. It seems that the word *corruption* in Indonesian was born from Dutch.

(Murdiawati & Parman, 2020) In various literature, it is also stated that *corruptio* comes from the original word *corumpiere* or *corrupteia*, an older Latin word. From the original language, *corruption* can be interpreted as "bribery" which means bribery or "seduction".

The criminal act of corruption is regulated in Law of the Republic of Indonesia Number 31 of 1999 concerning Corruption Crimes in conjunction with Law of the Republic of Indonesia Number 20 of 2001 which is formulated in Articles: 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 12B, 13, 15, 16, 21, 22, 23 (withdrawing Article 220, 231, 421, 422, 429, 430 of the Criminal Code), and article 24. From these articles there are 44 formulations of criminal acts of corruption which, on certain grounds, can be differentiated and grouped based on the substance of their object, criminal acts of corruption can be divided into two types, namely pure criminal acts of corruption are criminal acts of corruption whose substance of the object concerns matters related to the legal protection of legal interests involving state finances, the state economy, and the smooth implementation of the duties of civil servants or job executors. which is public.

(Asiva Noor Rachmayani, 2015) The criminal act of impure corruption is a criminal act of corruption whose substance is the legal protection of legal interests for the smooth implementation of law enforcement duties in efforts to eradicate criminal acts of corruption. On the basis of whether or not it can harm state finances and the state economy, it can be divided into two types, namely:

1. Corruption crimes that can harm state finances or the state economy are contained in Article 2, Article 3, Article 15 and Article 16.
2. Criminal acts that do not require conditions can harm state finances or the state economy as stated in Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 12b, Article 13, Article 21, Article 22, and Article 23;

(Arsil. et al., 2021) There is something interesting that the writer is interested in making it into research material, namely because the threat of punishment contained in the provisions of Article 2 Paragraph (1) and Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes provides a minimum limit. In the provisions of Article 2 paragraph (1) of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU Tipikor) regulates criminal acts of corruption committed by enriching oneself, another person, or a corporation: Unlawfully, detrimental to state finances or the state economy. Criminal sanctions for perpetrators of criminal acts of corruption who violate Article 2 paragraph (1) of the Corruption Law are: Life imprisonment, imprisonment for a minimum of 4 years and a maximum of 20 years;

Furthermore, the provisions of Article 3 of Law Number 31 of 1999 regulate criminal acts of corruption committed by abusing one's position to benefit oneself, another person, or a corporation: The perpetrator can be sentenced to prison for a minimum of 3 years and a maximum of 12 years. The perpetrator can also be subject to a fine of at least IDR 150 million and a maximum of IDR 600 million. (Ricky Gunawan, Miko Ginting, Raynov T. Pamintori, 2021) The elements of criminal acts of corruption regulated in Article 3 of Law Number 31 of 1999 are: Committing an act against the law, enriching oneself, another person or corporation, harming the state or the state's economy.

(Mappatunru, 2021) From the substance of the two articles, the elements contained therein are almost indistinguishable and provide options regarding the minimum limit for the threat of punishment, so that it is not uncommon for the position of the Police, Prosecutors and Judges to become confused in terms of applying the article to suspects or defendants who have been involved in a Corruption Crime case. Based on the description stated above, it is important to carry out a study regarding *Juridical Study Determining The Application Of The Article On Eradication Of Criminal Acts Of Corruption Based On Sema Number 7 Of 2012*.

## RESEARCH METHODS

This research uses normative legal research methods. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research places law as a building system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This research uses a statutory approach and a conceptual approach. The statutory approach is used to obtain an overview of the *Juridical Study Determining The Application Of The Article On Eradication Of Criminal Acts Of Corruption Based On Sema Number 7 Of 2012*;

## RESULT AND DISCUSSION

### 1. **Determination of the application of the article on eradication of criminal acts of corruption;**

Law enforcement is a process of making efforts to enforce or function norms in real terms as guidelines for behavior in social life related to law. Law enforcement is a problem faced by every society. The word law enforcement has the connotation of upholding, implementing provisions in society, so that in a broader context law enforcement is a process of realizing abstract concepts into reality. The law enforcement process in reality culminates in its implementation by the law enforcement officials themselves.

(Nining et al., 2023) In the practice of implementing law enforcement in the field, there are times when there is a conflict between legal certainty and justice, this is because the conception of justice is an abstract formulation, (Edyyono et al., 2017) while legal certainty is a procedure that has been determined normatively. For a law to function, the mentality or personality of law enforcement officers plays an important role. If the regulations are good, but the quality of the officers is not good, then problems will occur. One of the keys to success in law enforcement is the mentality or personality of law enforcers. As I quoted from Ishaq's book, S.J.E Sahetapy stated that in the context of law enforcement and the implementation of law enforcement, enforcing wrongdoing without truth is a policy. (Pokhrel, 2024) Upholding the truth without honesty is hypocrisy. Within the framework of law enforcement by every law enforcement agency (inclusive of its people) justice and truth must be expressed, must be felt and seen, must be actualized.

The application of the provisions of Article 2 Paragraph (1) and Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 is highly debated. The birth of SEMA Number 7 of 2012, determines that if the value of state financial losses is above Rp. 3 of 2018 stated that the amount of state financial losses was changed to: The value of state financial losses above Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 2 paragraph (1) UUPTPK. 2. The value of state financial losses is up to Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 3 UUPTPK.

### 2. **Juridical Study Determining The Application Of The Article On Eradication Of Corruption Crimes Based On Sema Number 7 Of 2012**

The application of the provisions of Article 2 Paragraph (1) and Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 is highly debated. Article 2 paragraph (1) UUPTPK regulates that anyone who unlawfully enriches themselves, another person, or a corporation, at the expense of state finances or the state economy, can be sentenced to prison and a fine. Meanwhile, Article 3 UUPTPK regulates abusing one's position to benefit oneself, a person or a corporation.

The birth of SEMA Number 7 of 2012, determined that the value of state financial losses was above Rp. 100,000,000.00 (one hundred million rupiah), Article 2 Paragraph (1) can be applied, but if the value of state financial losses is less than Rp. 100,000,000.00 (one hundred million rupiah) can be applied to Article 3. (Ulfah, 2022) Furthermore, because there is a change in the value of the currency, without prejudice to the elements of the article being charged, based on SEMA Number 3 of 2018 it is stated that the amount of state financial losses is changed to: The value of state financial losses above Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 2 paragraph (1) UUPTPK. The value of state financial losses is up to Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 3 UUPTPK.

The change from the previous SEMA Number 7 of 2012 to SEMA Number 3 of 2018 was motivated by changes in the value of the currency in Indonesia. The change in SEMA

Number 7 of 2012 to SEMA Number 3 of 2018 will make it easier for Law Enforcers to determine under what article someone suspected of committing a criminal act of corruption is suspected or charged. (Pusat Analisis dan Evaluasi Hukum Nasional BPHN, 2023) Apart from that, according to researchers, the birth of SEMA Number 7 of 2012, which was later revised to become SEMA Number 3 of 2018, was one of the Supreme Court's efforts to dismiss the issue of buying and selling articles in determining which article a person was charged with, because Article 2 paragraph (1) UUPTPK and article 3 UUPTPK provide a threat of punishment with a minimum limit. According to researchers, if there were no provisions for SEMA Number 7 of 2012 to become SEMA Number 3 of 2018, then the Indonesian legal system would result in ineffectiveness in its application because the law was created consisting of norms or rules that regulate life in the state and guarantee legal certainty, public order and the creation of justice (JASMINE, 2014)

## CONCLUSION

The birth of SEMA Number 7 of 2012, determined that the value of state financial losses was above Rp. 100,000,000.00 (one hundred million rupiah), Article 2 Paragraph (1) can be applied, but if the value of state financial losses is less than Rp. 100,000,000.00 (one hundred million rupiah) can be applied to Article 3. Furthermore, because there is a change in the value of the currency, without prejudice to the elements of the article being charged, based on SEMA Number 3 of 2018 it is stated that the amount of state financial losses is changed to: The value of state financial losses above Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 2 paragraph (1) UUPTPK. The value of state financial losses is up to Rp. 200,000,000.00 (two hundred million rupiah) can be applied to Article 3 UUPTPK. The change from the previous SEMA Number 7 of 2012 to SEMA Number 3 of 2018 was motivated by changes in the value of the currency in Indonesia. The change in SEMA Number 7 of 2012 to SEMA Number 3 of 2018 will make it easier for Law Enforcers to determine under what article someone suspected of committing a criminal act of corruption is suspected or charged. Apart from that, according to researchers, the birth of SEMA Number 7 of 2012, which was later revised to become SEMA Number 3 of 2018, was one of the Supreme Court's efforts to dismiss the issue of buying and selling articles in determining which article a person was charged with, because Article 2 paragraph (1) UUPTPK and article 3 UUPTPK provide a threat of punishment with a minimum limit. According to researchers if there are no provisions SEMA Number 7 of 2012 becomes SEMA Number 3 of 2018, then The Indonesian legal system will cause ineffectiveness in its application because the law is created consisting of norms or rules that regulate life in the state and guarantee legal certainty, public order and the creation of justice.

## REFERENCES

- Arsil., Astriyani., Rositawati, D., Aziezi, M. T., Cohen, D. (David J. ., East-West Center., & Lembaga Kajian dan Advokasi Untuk Independensi Peradilan (Jakarta, I. (2021). *Pengadilan Tindak Pidana Korupsi di Indonesia Pasca-2009*.
- Asiva Noor Rachmayani. (2015). *No 主観的健康感を中心とした在宅高齢者における健康関連指標に関する共分散構造分析* Title.

- Edyyono, S. W., Napitupulu, E., Panjaitan, S., Anggara, Suryadarma, A., & Yulianto, T. (2017). *Memperkuat Revisi Undang-Undang Narkotika Indonesia: Usulan Masyarakat Sipil*. 1–103. <https://icjr.or.id/wp-content/uploads/2017/11/Memperkuat-Revisi-UU-Narkotika.pdf>
- Indra, P., Panjaitan, H., & Hutahaean, A. (2023). Analisis Yuridis Penerapan Sanksi Bagi Pelaku Tindak Pidana Korupsi Berupa Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara. *Jurnal Cahaya Mandalika ISSN 2721-4796 (Online)*, 4(3), 994. <https://ojs.cahayamandalika.com/index.php/JCM/article/view/1715>
- JASMINE, K. (2014). 濟無No Title No Title No Title. *Penambahan Natrium Benzoat Dan Kalium Sorbat (Antiinversi) Dan Kecepatan Pengadukan Sebagai Upaya Penghambatan Reaksi Inversi Pada Nira Tebu*.
- Mappatunru, A. M. D. (2021). Unsur Memperkaya Dan Menguntungkan Diri Sendiri, Orang Lain Atau Korporasi Dalam Tindak Pidana Korupsi. *Jurnal Media Hukum Vol.*, 9(2), 59–69.
- Murdiawati, D., & Parman, L. (2020). Penerapan Ketentuan Tindak Pidana Korupsi Berdasarkan Sema Nomor 3 Tahun 2018. *Jurnal Education and ...*, 23(1), 98–107. <http://journal.ipts.ac.id/index.php/ED/article/view/2333%0Ahttps://journal.ipts.ac.id/index.php/ED/article/download/2333/1236>
- Nining, N., Sabri, F., & Elvandari, S. (2023). Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Tidak Memiliki Keahlian dan Kewenangan Melakukan Praktik Kefarmasian Berdasarkan Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan. *UNES Journal of Swara Justisia*, 7(3), 976–994. <https://doi.org/10.31933/ujsj.v7i3.401>
- Pokhrel, S. (2024). No TitleEΛENH. In *Αγαη* (Vol. 15, Issue 1).
- Pusat Analisis dan Evaluasi Hukum Nasional BPHN. (2023). *Analisis Dan Evaluasi Hukum Mengenai Penegakan Hukum Tindak Pidana Korupsi*. 1–277. <https://bphn.go.id/>
- Ricky Gunawan, Miko Ginting, Raynov T. Pamintori, M. R. (2021). *Perbaikan Tata Kelola Narkotika Indonesia: Mencari Alternatif Non Pidana Bagi Penggunaan Narkotika*.
- Ulfah, M. (2022). Analisis Putusan Mahkamah Agung Terkait Pencabutan Pengetatan Remisi Bagi Pelaku Tindak Pidana Korupsi ( Studi Kasus Putusan Mahkamah Agung Nomor Perkara : 28 P / Hum / 2021 ).” In *Skripsi Universitas Islam Negeri Prof.K.H. Saifuddin Zuhri Purwokerto*. [https://eprints.uinsaizu.ac.id/15681/1/Maria\\_ulfah\\_implicasi\\_putusan\\_mahkamah\\_agung\\_terkait\\_pencabutan\\_pengetatan\\_remisi\\_bagi\\_pelaku\\_tindak\\_pidana\\_korupsi.pdf](https://eprints.uinsaizu.ac.id/15681/1/Maria_ulfah_implicasi_putusan_mahkamah_agung_terkait_pencabutan_pengetatan_remisi_bagi_pelaku_tindak_pidana_korupsi.pdf)