

The Authority of Judges to Independently Determine the Amount of State Financial Losses in Verdicts on Corruption Cases

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Abstract

Law enforcement in corruption cases in Indonesia often faces challenges related to proving the element of state financial loss. One of the issues that arises is the authority of judges to independently determine the amount of state loss without relying on an official audit by state audit institutions such as the Audit Board of Indonesia (BPK) or the Financial and Development Supervisory Agency (BPKP). This study employs a normative juridical research method using a statute approach and an analytical approach to examine the legal basis, judicial practices, and implications of such authority. The findings indicate that although Article 183 of the Indonesian Criminal Procedure Code (KUHAP) grants judges the authority to decide based on at least two valid pieces of evidence, the absence of an official audit can lead to legal uncertainty, the risk of judicial error, and violations of the defendant's right to a fair trial. Therefore, harmonization between regulations and judicial practice is necessary to ensure legal certainty, protection of human rights, and the effectiveness of corruption eradication .

I. Introduction

Corruption is one of the extraordinary crimes that remains a serious problem in Indonesia. This phenomenon has taken root in various sectors of government and state institutions, from the central to the regional levels (Komisi Pemberantasan Korupsi, 2023). Corruption not only causes huge financial losses to the state but also hinders national development and undermines public trust in state institutions. The financial losses incurred by the state as a result of corruption have a direct impact on the disruption of public services, delays in infrastructure development, and increased social inequality. Based on data from the Corruption Eradication Commission (KPK), there were more than 100 corruption cases handled in 2023, with state losses amounting to trillions of rupiah (A. K. Palma, 2021). The audit report of the State Audit Agency (BPK) also noted several findings indicating financial losses to the state due to budget management irregularities in various government agencies (BPK RI, 2024). This situation indicates that combating corruption remains a major challenge requiring firm and accountable law enforcement, including in terms of proving and determining the amount of state losses in criminal court proceedings.

Law enforcement in corruption cases plays a strategic role in achieving justice and creating a government free from the abuse of power (S. Situmorang, 2020). The judiciary, particularly the corruption criminal court, bears a significant responsibility in delivering verdicts that not only meet legal formalities but also reflect the sense of justice in society (R. Atmasasmita, 2004). The public has high expectations that judges will deliver objective, accountable verdicts that reflect the public interest. One important aspect of passing verdicts in corruption cases is the calculation of state financial losses. The amount of state losses is a major factor in determining the severity of the punishment imposed on the defendant (F. Wijaya, 2008). Therefore, accuracy and validity in determining the amount of state losses are crucial, as they concern the legitimacy of court decisions and the rights of defendants. In practice, if state losses cannot be proven with certainty, this can weaken the position of public prosecutors and undermine the effectiveness of corruption eradication.

The determination of state financial losses in corruption cases has so far been highly dependent on the results of audits conducted by state audit institutions, such as the Supreme Audit Agency (BPK) and the Financial and Development Supervisory Agency (BPKP) (H. Arsyad, 2013). This dependence is based on the assumption that only these institutions have the authority and competence to legally declare the existence of state losses. This is confirmed in various Supreme Court decisions and the opinions of criminal law experts, who state that state losses must be proven with certainty and be calculable. However, this dependence often becomes an obstacle in the law enforcement process, especially when the audit results are not yet available when the

investigation or prosecution process is underway. In practice, the Attorney General's Office or the Corruption Eradication Commission (KPK) must wait for the audit results to be able to prove the element of state losses, even though the legal process must be continued immediately for the sake of legal certainty (Nurannsila et al, 2023).

It is not uncommon to find cases of corruption that are brought to trial even though there has been no official audit by the BPK or BPKP. In such situations, prosecutors often use internal investigation reports, preliminary calculations, or even expert testimony to replace official audit documents. This has sparked debate in judicial practice as to whether judges can accept evidence of state losses from sources other than state audit institutions (I. Suriadiata, 2024). Some judges consider that if other evidence is sufficiently strong and convincing, then the absence of a BPK or BPKP audit is not a problem. However, on the other hand, this situation opens the door for defendants to challenge the validity of such evidence, which could ultimately affect the quality and legitimacy of court decisions (S. Pinem et al, 2023). The limitations and delays in audit results from state audit institutions often become one of the factors hindering the acceleration of legal processes. Lengthy audit procedures, limited auditor resources, and high workloads at the BPK and BPKP mean that the audit process can take months, or even longer. As a result, the investigation and prosecution processes cannot be completed promptly, which impedes the judicial process and disrupts the principles of swift, simple, and inexpensive justice as stipulated in the Criminal Procedure Code (KUHP) (Sapri Febriyan R, 2023). On the other hand, if legal proceedings continue without waiting for the official audit results, another issue arises in the form of potential formal defects in proving the elements of state losses. Therefore, there is an urgent need to review the role and position of state loss audits in the system of proving corruption crimes, particularly regarding the authority of judges to assess state losses based on the evidence available in court (A. W., 2023).

The authority of judges to assess and decide on the amount of state financial losses in corruption cases has a legal basis that can be found in the Criminal Procedure Code (KUHP) and the Corruption Criminal Law (Law No. 31 of 1999 as amended by Law No. 20 of 2001). In the KUHP, Article 183 states that a judge may render a decision if, based on at least two valid pieces of evidence, he or she is convinced that the criminal act did indeed occur and that the defendant was the perpetrator. This provision allows judges to assess the evidence presented in court, including the amount of state losses, as long as it is deemed valid and convincing (Dewi Damaiyanti, 2023). Legal opinions and several precedents state that BPK/BPKP audits are not the only evidence to prove the element of state losses; judges may use expert testimony, documents, and other evidence as long as they comply with the provisions of criminal procedure law. For example, in a case of corruption in the procurement of medical equipment in a regional health office, the panel of judges still handed down a verdict and determined the amount of state losses even though there was no official audit

from the BPK or BPKP, taking into account the results of the investigators' investigation and expert testimony from forensic economists (Astuti, 2023). It shows that judges have discretion in assessing facts and evidence independently without having to rely entirely on the results of audits by state audit institutions, as long as their legal considerations are rational and accountable.

The legal debate over whether judges are permitted to determine the amount of state losses without an official audit from state audit institutions such as the BPK or BPKP is an important issue in the enforcement of criminal law on corruption. On the one hand, there is an opinion that only constitutionally authorized state institutions, such as the BPK, can legally and definitively declare state financial losses. This opinion is rooted in Article 23E of the 1945 Constitution, which states that the BPK has the authority to examine the management and accountability of state finances (Nila Amania, 2023). Therefore, if a judge determines state losses without an official audit, it can be considered an overstepping of their authority or even a violation of the principles of state accountability. On the other hand, many legal practitioners and academics argue that as long as other evidence in court can convincingly prove state losses, judges have the authority to determine the amount without waiting for the audit results, to ensure the effectiveness of the judicial process (Intan Timur, 2021). However, granting judges the authority to determine state losses independently also carries various risks, particularly the potential for bias or error in interpreting and assessing technically complex evidence. Calculating state losses often requires expertise in forensic accounting, state finance, or procurement of goods and services, which are not the primary competencies of judges (A. DM, 2022). If judges determine state losses based solely on assumptions or subjective interpretations without adequate technical support, this could violate the principle of due process of law and the defendant's right to a fair trial. Errors in assessing the amount of losses can directly impact the severity of the sentence imposed, and could even increase the potential for criminalization if not accompanied by accurate and transparent legal considerations.

The legal consequences of this practice are very serious, both for the defendant and for the legitimacy of court decisions. For the defendant, the determination of state losses that are not based on an official audit can be used as a basis for filing extraordinary legal remedies such as a case review (PK), because there was a clear error in the judge's consideration. On a broader level, decisions that are not based on valid and objective methods of proof can lead to a crisis of public confidence in the judiciary. Such decisions can also set a bad precedent that blurs the line between judicial authority and technical auditing and opens the door to judicial intervention beyond its proper authority. Therefore, clear norms and guidelines are needed in the practice of criminal corruption trials so that judges do not hesitate, but remain bound by legal principles that guarantee justice and legal certainty.

The urgency of studying the authority of judges to determine the amount of state financial losses in corruption cases lies in the importance of legal clarity regarding the limits, basis, and scope of such authority so as not to cause uncertainty in judicial practice. Without clear guidelines, this authority can lead to differences in interpretation among judges and open the door to errors in assessment that can have serious consequences for the legal fate of the defendant. Additionally, this lack of clarity can undermine the principle of justice and erode the legitimacy of court decisions if they are perceived as not based on valid and objective evidence. Consequently, this study is essential for enhancing legal certainty, ensuring the protection of the defendant's human rights, and bolstering the effectiveness of corruption eradication while adhering to the principles of justice and accountability within the Indonesian criminal justice system.

2. Research Method

This study employs a normative juridical research method, which is a legal research approach that emphasizes literature review to examine applicable positive legal norms. The approaches used in this study are the statute approach and the analytical approach. The statute approach reviews laws and regulations related to corruption crimes, judicial authority, and the mechanism for proving state financial losses, such as the Criminal Procedure Code (KUHP), the Corruption Crime Law, and the Audit Board Law (UU BPK). The analytical approach is used to analyze the views of legal experts, relevant doctrines, and applicable case law to understand how these norms are applied in judicial practice. It is particularly important in the context of a judge's authority to assess state losses without the need for an official audit.

The data sources in this research consist of secondary data, namely primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and court decisions, while secondary legal materials consist of legal literature, academic journals, and previous research findings. Tertiary legal materials include legal dictionaries and legal encyclopedias that support the understanding of technical terms used in this study. The data collection technique is conducted through a literature study by systematically reviewing legal documents and other literature sources. The data analysis technique is carried out qualitatively by examining, classifying, and interpreting the collected legal materials, which are then logically organized to answer the research questions and support the legal arguments in this study.

3. Results and Discussion

Legal Basis for Judges' Authority to Determine State Losses in Corruption Cases Without an Official Audit

The authority of judges to determine the amount of state financial losses in corruption cases without waiting for the results of audits from official auditing institutions, such as the Supreme Audit Agency (BPK) or the Financial and Development Supervisory Agency (BPKP), is an important and controversial issue in criminal justice practice in Indonesia. Although criminal procedure law recognizes the principle of judicial discretion to assess and decide based on their conviction regarding valid evidence, there is still debate regarding the extent to which judges can determine the amount of state losses without official audit documents. This issue touches on fundamental aspects of the system of evidence, the validity of evidence, as well as the independence and limits of judicial authority (N. et al, 2023).

In Indonesian criminal procedure law, the main provision that serves as the basis for judges in rendering decisions is contained in Article 183 of the Criminal Procedure Code (KUHAP). This article states: "A judge may not impose a criminal penalty on a person unless, based on at least two valid pieces of evidence, he or she is convinced that a criminal act has occurred and that the defendant is guilty of committing it." This provision emphasizes that the main basis for a verdict is the judge's conviction based on two or more pieces of evidence that are valid according to the law. Thus, the KUHAP does not specify that evidence must come from a particular institution—it is sufficient that it is valid according to the law and capable of convincing the judge. This allows judges to use various types of evidence, including expert testimony, documents, and witness statements, to assess the existence of financial losses to the state.

Meanwhile, Law No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001, states that one of the elements in certain types of corruption offenses is "causing harm to state finances or the national economy." This provision can be found in Article 2(1) of the Anti-Corruption Law, which states: "Any person who, contrary to the law, commits an act of enriching oneself or another person or a corporation that may cause financial loss to the state or the national economy..." The phrase "may cause harm" indicates that the nature of the harm in question does not always have to be concrete in the form of a specific amount, but can also be potential harm. Thus, according to some circles, the existence of an official audit is not necessary as long as the harm or potential harm can be proven through other valid and convincing evidence.

Furthermore, Article 1(15) of Law No. 15 of 2006 on the State Audit Agency (BPK) states that state financial loss is a shortage of money, securities, and/or goods that is definite and certain in amount, resulting from unlawful acts, whether intentional

or negligent. In practice, the BPK is indeed the constitutionally mandated institution authorized to officially declare the existence of state financial loss. However, in the context of criminal procedure law, the calculation of losses by the BPK or BPKP is considered one form of expert testimony or documentary evidence, not the sole required evidence. Therefore, the judge may still form their conviction using other valid evidence, provided that the minimum requirement of two pieces of evidence as stipulated in Article 184 of the Criminal Procedure Code is met.

Thus, there is no explicit norm stating that audits by the BPK or BPKP are the only valid evidence to prove the element of state losses in corruption crimes. The judge's conviction remains the key factor in handing down a verdict, as long as it is based on evidence that is valid according to procedural law. However, given the technical nature of calculating state losses, judges are still required to be careful and responsible in assessing and formulating strong legal considerations, especially when not supported by official audits from state audit institutions (H. H, 2023).

In the Indonesian criminal justice system, judges have the role of *judex facti*, which is the party that examines, assesses, and decides cases based on the facts revealed in court. The *judex facti* principle grants first-instance and appellate judges the authority to assess the material truth of a criminal case, including assessing the truth of evidence and its relevance to the elements of a criminal offense. In the context of corruption crimes, judges play a role in ensuring that elements such as state financial losses are proven based on evidence that is valid under the Criminal Procedure Code. Therefore, judges are not only interpreters of the law but also seekers of truth based on the process of proof.

This authority is based on the principle of judicial independence as stipulated in Article 24(1) of the 1945 Constitution and elaborated in Law No. 48 of 2009 on Judicial Power, particularly in Article 3(1), which states that judges are obligated to explore, follow, and understand the legal values and sense of justice that exist within society. This independence allows judges to use their convictions and judgments in deciding cases, provided that the process is conducted by criminal procedural law and the principles of fair trial. Judges must not be interfered with by any institution, including state auditors, in matters of evidence assessment, as this would undermine the principle of an independent judiciary.

Nevertheless, the authority of judges remains constrained by the framework of criminal procedural law, namely the Criminal Procedure Code (KUHAP) and related legislation. Judges must not disregard the procedures for presenting evidence and the minimum requirement of two valid pieces of evidence as stipulated in Articles 183 and 184 of the KUHAP. Judges must also not form their convictions arbitrarily but must base them on logical considerations and legal arguments that can be tested. When determining state losses, judges must be able to explain the basis of their assessment openly and accountably in their decisions, especially if they do not use official audit results from the State Audit Agency (BPK) or the Financial and

Development Supervisory Agency (BPKP). This balance between independence and accountability is key to maintaining the legitimacy of judicial power in corruption cases.

Audit results from the State Audit Agency (BPK) or the Financial and Development Supervisory Agency (BPKP) in corruption cases are often considered the primary reference in determining the amount of state financial losses. However, in the context of criminal procedure law, the question arises as to whether such audit results constitute a formal requirement (procedural necessity) or a material requirement (the core substance of the criminal offense). In practice, audit results are more appropriately viewed as evidence in the form of expert testimony or documents, rather than an absolute formal requirement. Therefore, the absence of an official audit does not necessarily mean that the element of state losses is not proven, as long as there is other valid evidence that can convince the judge of the occurrence of state losses (Quthni, 2023).

It is also necessary to understand the difference between evidence and absolute proof. In criminal law, evidence is a means that can be used to prove a criminal act based on the provisions of Article 184 of the Criminal Procedure Code, namely witness testimony, expert testimony, documents, clues, and defendant testimony. Evidence does not mean absolute proof; that is, no single type of evidence is mandatory or sufficient on its own to prove the elements of a criminal offense. Therefore, audit results, although highly helpful and valuable, remain classified as evidence, not as absolute proof that must be present. Judges may still assess and form their convictions based on a combination of other valid evidence under the Criminal Procedure Code, such as witness testimony and supporting documents.

This view is reinforced by Constitutional Court Decision No. 31/PUU-X/2012, which states that state financial losses do not have to be proven exclusively by the BPK. The Constitutional Court emphasizes that the element of state losses can be proven through other evidence that is valid under criminal procedure law, not only through the audit results of the state audit institution. This decision serves as a vital foundation in affirming that audit results are not the only valid evidence in proving the element of state loss. Thus, judges still have the discretion to assess and decide based on other evidence, provided it aligns with the principles of justice, evidentiary procedures, and applicable criminal procedural law.

In several court rulings, there is jurisprudence stating that judges may independently determine state financial losses even without official audit results from the state audit institution. One example is Supreme Court Decision No. 1584 K/Pid.Sus/2010, where the judge stated that state losses were proven based on expert witness testimony and documentary evidence without an audit report from the BPK or BPKP. In its reasoning, the Supreme Court emphasized that audit results are not the only evidence that can prove the element of state loss, provided that the judge has formed a conviction based on at least two valid pieces of evidence under

the Criminal Procedure Code (KUHP). This approach indicates that under certain conditions, judges are granted discretion to form a conviction regarding state loss without waiting for official audit results.

Conversely, there are also rulings stating that official audit results are an important prerequisite for proving state financial losses with certainty. For example, in the Bandung Corruption Court Decision No. 26/Pid.Sus-TPK/2013/PN.Bdg, the panel of judges stated that since there were no official audit results from the State Audit Agency (BPK) or the State Audit Agency for State-Owned Enterprises (BPKP), the element of state financial loss could not be proven legally and convincingly. In its reasoning, the court emphasized the importance of the legality and authority of audit institutions in determining the value of state losses, given the technical and complex nature of such calculations. This perspective adopts a stricter formal approach to proving state losses in corruption cases.

The difference in these approaches reflects the lack of uniformity in judicial practice regarding the legal status of audit results and the scope of judicial authority. On the one hand, there is an approach that allows judges to use their discretion in assessing evidence and determining losses based on the principles of evidence in the Criminal Procedure Code. On the other hand, there is a more conservative approach that requires official audit authorization to fulfill the formal legal aspects of evidence. This difference creates legal uncertainty and has the potential to affect certainty and justice for the defendant.

In academic studies, many criminal law experts argue that judges have considerable discretion in assessing and determining the element of financial loss to the state in corruption cases. This opinion is based on the principle of judicial independence to assess evidence freely and responsibly by Article 183 of the Criminal Procedure Code, without being bound by any particular type of evidence, including audit results from state audit institutions. According to Romli Atmasasmita, the element of state loss in corruption cases does not need to be proven quantitatively and definitively if the element of “potentially causing financial loss to the state” is satisfied. This view supports the flexibility of judges in assessing facts in court, especially if there are administrative obstacles in obtaining official audits. Therefore, as long as there are two valid pieces of evidence indicating the existence of state loss or potential state loss, judges are legally authorized to determine such loss without waiting for audit results from the State Audit Agency (BPK) or the State Financial Audit Agency (BPKP).

However, from the perspective of state financial experts or auditors, there is a more restrictive view. Experts in this field generally emphasize that state losses must be proven with certainty, clarity, and quantitative accountability, which can only be done through an official audit by an authorized institution such as the BPK. According to this view, only state audit institutions have the legal authority and technical competence to determine and calculate state losses, in accordance with the

definition in Article 1, point 15 of Law No. 15 of 2006 on the BPK. Without an official audit, they argue that the determination of the amount of state losses by judges risks giving rise to errors, injustice, and legal uncertainty, which may open the door to abuse of authority. The difference in views between criminal law experts and state financial experts shows that there is a need for harmonization of normative and technical approaches in proving state losses so that there is no conflict in the enforcement of fair and accountable law.

Legal Implications of Judge's Decision on State Losses for Legal Certainty and the Rights of the Defendant

Legal certainty is a fundamental principle in the criminal justice system, requiring that every legal provision be obvious, predictable in its application, and consistently enforced. In this context, legal certainty ensures that anyone involved in legal proceedings clearly understands what actions are prohibited and the legal consequences thereof. This principle is closely related to the principles of *nullum crimen sine lege* (no crime without a law) and due process of law, which require that legal procedures be conducted in an orderly, measured manner and in accordance with applicable rules. In criminal corruption cases, legal certainty is crucial given its connection to the defendant's human rights, state finances, and the significant impact on the image and integrity of state institutions.

In terms of proving the element of state financial loss, legal certainty requires objective and transparent measures and bases. The determination of the amount of loss must not be based on assumptions, subjective interpretations, or estimative approaches that are not supported by evidence that is legally valid under criminal procedure law. Ambiguity in proving the amount of state loss has the potential to undermine the legitimacy of court decisions because it can give rise to perceptions of injustice or arbitrariness. The legitimacy of a decision is not only measured by its substantive truth but also by its procedural accuracy, including in calculating state losses. Therefore, every decision imposing a criminal penalty based on state losses must be legally and logically accountable so that fair and accountable legal certainty is created.

Under the principle of fair trial guaranteed by the constitution and international law, every defendant in a criminal case has the right to adequate defense or the right to defense. This right includes access to complete information regarding the charges, the evidence presented, and a fair opportunity to defend oneself either personally or through legal counsel. In corruption cases, the defendant's defense is closely related to their ability to understand and refute allegations of state losses. If the basis for determining state losses is not communicated or does not come from credible and verifiable sources, the defendant's right to defense will be violated because they will not have a solid basis for refuting the allegations.

The defendant's right to know and examine evidence is a substantial part of the principle of equality of arms—equality between the prosecutor and the defendant in the evidentiary process. Evidence used to determine state losses, such as audit reports, expert testimony, or other documents, must be available for examination in court. If the judge determines the amount of loss without an official audit or without explaining in detail the calculation method used, the defendant loses the opportunity to test the validity of the calculation. This is contrary to the spirit of transparency and objectivity in criminal justice, as the evidence becomes one-sided and not open to critical and rational defense.

When a verdict is handed down based on evidence that is not objective or cannot be properly verified, there is a real risk of violating the defendant's human rights. The right not to be punished without a fair trial is part of human rights protected by Article 28D paragraph (1) of the 1945 Constitution and various international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR). A verdict that is not based on valid and accountable evidence not only harms the defendant individually but also tarnishes the integrity of the judicial institution and weakens the legitimacy of the fight against corruption. Therefore, respect for the rights of the defendant, including the right to know and examine the basis for determining state losses, is an integral part of a fair, transparent, and just legal system.

The absence of an official audit in corruption cases has serious legal consequences, particularly regarding the risk of errors in determining the amount of state financial losses. Without an audit conducted by an authorized and competent institution such as the State Audit Agency (BPK) or the State Financial Audit Agency (BPKP), judges rely solely on other evidence that is often non-technical or non-quantitative. It can lead to estimates or rough calculations that are not based on standard accounting and bookkeeping methods. As a result, the amount of state losses determined may be greater or less than the actual amount, which will certainly affect the severity of the punishment imposed. Such risks open up the possibility of injustice, both to the state and to the defendant.

The next consequence is the vulnerability of the decision to be overturned at the appeal or cassation level. If, during the defense process, the defendant can prove that the determination of state losses was not based on an official audit or valid evidence, then the first-instance court's decision could potentially be overturned by a higher court. The Supreme Court itself has stated in several decisions that the element of state losses has not been legally proven because there was no audit by the BPK/BPKP or because there was no clarity in the calculation method. This situation not only consumes time and resources but also demonstrates the immaturity of the evidence procedure, which should be the key foundation of the criminal justice process.

The final but no less important impact is the decline in public trust in the judiciary

and the process of combating corruption. The public demands justice that is not only firm but also fair and based on objective legal facts. When a decision is perceived as speculative or not supported by substantial evidence, such as official audit results, the perception arises that the judicial process is not transparent or even riddled with certain interests. The accountability of judges and judicial institutions is at stake, and this has the potential to weaken the collective spirit in the fight against corruption in Indonesia. Therefore, the absence of official audits is not merely a technical issue but concerns the legal and social legitimacy of a criminal judgment.

In judicial practice, there are a number of decisions that have become negative precedents because the determination of state financial losses was not based on an official audit, resulting in the reversal of decisions at the appellate or cassation level. One example is the Decision of the Medan Corruption Court No. 20/Pid.Sus-TPK/2020/PN Mdn, where the panel of judges found the defendant guilty without an audit from the State Audit Agency (BPK) or the State Audit Agency for State-Owned Enterprises (BPKP), but solely based on witness testimony and supporting documents. At the appellate level, the decision was overturned because the High Court panel of judges deemed that the element of state losses was not proven legally and convincingly. Such cases demonstrate that the absence of an official audit can weaken the legal strength of a decision, as it fails to meet clear standards of proof, particularly for the element of “state financial losses” as referred to in Articles 2 and 3 of the Corruption Law. Such a ruling sets a bad precedent for trust in professional and evidence-based law enforcement.

Conversely, there are also rulings that are deemed legally valid despite not being based on an official audit, as the judges comprehensively and rationally considered various other pieces of evidence. One such decision is Supreme Court Decision No. 1595 K/Pid.Sus/2012, in which the Court stated that state losses can be proven through a combination of evidence such as expert testimony, transaction documents, and witness testimony confirming the existence of unauthorized state expenditures. In its reasoning, the Court emphasized that as long as the judge has confidence based on at least two valid pieces of evidence by Article 183 of the Criminal Procedure Code, an audit result is not an absolute requirement. This approach allows for judicial flexibility in proving corruption but still demands caution and transparency in constructing legal arguments. These two precedents show that the acceptance or rejection of a ruling depends heavily on the quality of the argumentation and the integrity of the evidence-gathering process, not merely on the presence or absence of an official audit.

The urgency of harmonizing judicial practices and regulations in proving state losses in corruption cases has become increasingly evident due to inconsistencies in the application of the law by various levels of the judiciary. Currently, there are no explicit and uniform guidelines regarding the standards for proving state losses—whether it must be through an official audit by institutions such as the BPK/BPKP,

or whether it is sufficient to rely on the judge's conviction based on other evidence. This uncertainty leads to disparities in judicial decisions and raises serious issues regarding the principle of legal certainty and the protection of defendants' rights. Therefore, structured and normatively valid guidelines or standards for proving state losses are needed so that judges have clear references in assessing state losses without causing bias or arbitrariness.

The Supreme Court, as the highest judicial institution, plays a crucial role in ensuring consistency through the issuance of Supreme Court Circulars (SEMA) or Supreme Court Regulations (PERMA), which can provide technical and legal guidance to judges in adjudicating corruption cases, particularly regarding evidence of state losses. On the other hand, the lawmaker, namely the House of Representatives together with the President, also has the responsibility to revise or clarify the provisions in Law No. 31 of 1999 amended by Law No. 20 of 2001 regarding the Eradication of Corruption Crimes to align with judicial practices and human rights principles. Collaboration between the legislative and judicial branches is crucial in addressing the disparity between legal texts and judicial implementation, which often leads to multiple interpretations.

If the current provisions are deemed insufficient to provide certainty, then reformulating legal norms is a rational and strategic step. New norms must explicitly regulate the definition and methods of proving state financial losses, including the legal status of official audits: whether as absolute evidence, primary evidence, or supplementary evidence. These provisions must also consider best practices from other countries, as well as the principles of due process of law and the protection of defendants' rights. Reformulating norms is not merely a technical legal matter, but part of an effort to align the spirit of corruption eradication with the principles of a democratic and just rule of law. Harmonizing practices and regulations will create a more predictable and accountable judicial system that upholds the supremacy of law.

4. Conclusion

Based on the discussion that has been reviewed, it can be concluded that the authority of judges to determine the amount of state financial losses in corruption cases without an official audit is a complex legal issue that still causes debate. Although Article 183 of the Criminal Procedure Code provides room for judges to issue verdicts based on convictions obtained from at least two valid pieces of evidence, the absence of specific guidelines regarding the standard of proof for state losses opens up the potential for multiple interpretations that could lead to disparities in verdicts. On the one hand, judges have the authority as *judex facti* to assess and conclude legal facts. On the other hand, proving state losses without relying on audits from official institutions such as the State Audit Agency (BPK) or the State Financial and Asset Management Agency (BPKP) may pose risks of errors,

violations of the defendant's rights, and a decline in public trust in the integrity of the judicial system. It underscores the importance of caution and clarity in applying legal principles in corruption cases involving state financial losses.

Therefore, it is recommended that the Supreme Court immediately issue technical guidelines or binding internal regulations, such as SEMA or PERMA, to provide legal guidance for judges in assessing and determining state losses without authorized audits. In addition, lawmakers also need to reformulate the provisions in the Corruption Eradication Law, particularly those related to proving state losses, to make them more explicit and reduce loopholes in interpretation that are counterproductive to the principles of legal certainty and the protection of the defendant's human rights. Harmonization between regulations and judicial practice will not only increase the effectiveness of corruption eradication but also strengthen the legitimacy of Indonesia's criminal justice system as a system that upholds the principles of justice, objectivity, and accountability. Based on the discussion that has been reviewed, it can be concluded that the authority of judges to determine the amount of state financial losses in corruption cases without an official audit is a complex legal issue that still causes debate. Although Article 183 of the Criminal Procedure Code provides room for judges to issue verdicts based on convictions obtained from at least two valid pieces of evidence, the absence of specific guidelines regarding the standard of proof for state losses opens up the potential for multiple interpretations that could lead to disparities in verdicts. On the one hand, judges have the authority as *judex facti* to assess and conclude legal facts. On the other hand, proving state losses without relying on audits from official institutions such as the State Audit Agency (BPK) or the State Financial and Asset Management Agency (BPKP) may pose risks of errors, violations of the defendant's rights, and a decline in public trust in the integrity of the judicial system. It underscores the importance of caution and clarity in applying legal principles in corruption cases involving state financial losses.

Therefore, it is recommended that the Supreme Court immediately issue technical guidelines or binding internal regulations, such as SEMA or PERMA, to provide legal guidance for judges in assessing and determining state losses without authorized audits. In addition, lawmakers also need to reformulate the provisions in the Corruption Eradication Law, particularly those related to proving state losses, to make them more explicit and reduce loopholes in interpretation that are counterproductive to the principles of legal certainty and the protection of the defendant's human rights. Harmonization between regulations and judicial practice will not only increase the effectiveness of corruption eradication but also strengthen the legitimacy of Indonesia's criminal justice system as a system that upholds the principles of justice, objectivity, and accountability.

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