

## Consideration Panel of Judges in Decision Number 105/ Pid.Sus -TPK/2025/PN Surabaya concerning Criminal Act of Corruption Procurement Goods And Services

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**Abstract:** *Corruption in government procurement of goods and services is one of the most prevalent forms of corruption and significantly impacts state finances and public governance. Decision of the Corruption Court at the Surabaya District Court Number 105/Pid.Sus-TPK/2025/PN Surabaya concerns a corruption case related to the procurement of biopore construction services in hundreds of villages in Tuban Regency. This study aims to analyze the application of Article 2 paragraph (1) of Law Number 31 of 1999 on the Eradication of Corruption Crimes as amended by Law Number 20 of 2001, as well as to examine the legal reasoning and ratio decision employed by the judges in rendering the decision. The research adopts a normative juridical method using a statutory approach and a case approach. The findings indicate that the panel of judges considered the elements of unlawful conduct, enrichment of oneself or another person, and state financial loss to have been fulfilled based on the facts revealed during the trial and the admissible evidence. The ratio decidendi of the decision lies in the judges' conviction that the procurement irregularities were carried out regularly and were contrary not only to the formal regulations governing government procurement, but also to the principles of propriety, prudence, and accountability in the management of state finances. In its ruling, the court imposed a sentence of imprisonment and a fine, as well as an additional penalty in the form of compensation for state losses. From a normative perspective, the decision is in accordance with positive law; however, it still warrants evaluation from the standpoint of sentencing objectives to strengthen its deterrent effect and prevent corruption in the government procurement sector.*

## INTRODUCTION

Corruption is a problem in the law that is up to the moment. This still becomes a challenge serious in organization government in Indonesia. Action criminal corruption not only causes loss of state finances, but also has an impact systemic to decline trust public to state institutions and apparatus enforcer law (International, 2024; Kristian & Yopi, 2021). Therefore that, eradication action criminal corruption occupies a strategic position in the national law system. One of the sectors that have a high level of vulnerability to practice corruption is procurement of goods and services from the government (Utama, 2020; Wibowo & Wahyudi, 2023). The size of the managed budget, the complexity of the procurement procedure, as well as the existence of authority officials' public often open room occurrence of abuse of authority. In practice, deviations in procurement are often done through diversion of work to other parties without a legal basis, engineering administration implementation work, and neglect of principles of transparency as well as accountability (Rahardjo, 2021; Suhariyanto, 2023).

Decision of the Corruption Crime Court at the Surabaya District Court Number 105/Pid.Sus -TPK/2025/PN Surabaya is one of the relevant decisions for review because it reflects a pattern of corruption in procurement of goods and services at the local level. This case is related to a project of manufacturing biopores in hundreds of villages that are administratively stated as finished, but in a factual way not implemented in accordance with the provisions of contracts and regulations in procurement. Conditions that cause loss of state finances and show weakness in supervision in the implementation of procurement. Research previously generally discusses the consideration panel of judges in case of action criminal corruption in a general way, good from the aspect of fulfillment of elements of offense and objective criminalization (Arief, 2020; Hamzah, 2021; Kristian, 2022). However, studies that specially analyze the application of Article 2 paragraph (1) of the Law on Eradication of Criminal Acts of Corruption as well as the *ratio decidendi* panel of judges in case of corruption in procurement of goods and services with the object of decision of the Surabaya District Court are still relatively limited. Therefore that, research in this own novelty focuses on analysis of the law and *ratio decidendi* of the panel of judges in the decision as well as its relevance with practice of justice action criminal corruption in a national way.

## METHOD

This study is a study of law in a juridical normative which focuses on the study of legal norms in regulation, legislation and court decisions (Marzuki, 2021). The approach used covers the approach of statute *approach* and legal approach case *approach* (Soekanto & Mamudji, 2020). The legislative approach is used for study of the provisions of the laws that govern action criminal corruption, especially Article 2 paragraph (1) of the Law on Eradication of Criminal Acts of Corruption, whereas the case approach is used for analysis of the consideration of law

panel of judges in Decision Number 105/ Pid.Sus -TPK/2025/PN Surabaya.

Source material law consists of on:

1. Legal material: decisions courts and regulations Legislation;
2. Legal materials secondary: books text law, journal scientific, and results relevant research;
3. Legal materials tertiary: dictionary and encyclopedia law.

Collection material law done through studies library *research* analysis material law done in a way qualitative with method descriptive-analytical through reasoning deductive (Ibrahim, 2020) . Research This use interpretation systematic and teleological For evaluate suitability consideration panel of judges with objective formation Constitution Eradication Criminal Act of Corruption (Sutiyoso, 2022) .

### **Framework Theoretical**

#### **1. Criminal Act of Corruption as *Extraordinary Crime***

Action criminal corruption is actions by the creator Constitution positioned as crime outside ordinary ( *extraordinary crime* ) because its systemic impact to state finances and trust public (Hamzah, 2021; Kristian & Yopi, 2021) . Constitution Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 places element actions oppose law , enrich self Alone or other people, and loss state finances as element main in construction offense corruption (Chazawi, 2020) .

#### **2. Draft Against Material and Formal Law**

In doctrine law criminal , concept oppose law No only understood in a way formal as violation to regulation written , but also in material , namely contrary actions with principle propriety , prudence , and a sense of justice in public (Lamintang, 2021; Suhariyanto, 2023) . Understanding This has long been recognized in practice justice action criminal corruption in Indonesia, as confirmed in Decision The Supreme Court accepted draft oppose law material (Arief, 2020) .

#### **3. *Ratio Decidendi* in Decision Court**

Consideration panel of judges in case criminal is part essential from decision court because in it contained *ratio decidendi* , namely reason law the main thing that becomes base dropped decision (Mertokusumo, 2020) . *Ratio decidendi* reflect the reasoning process panel of judges in linking legal norms with facts revealed at the trial , as well as become indicator quality decision (Harahap, 2021) .

#### **4. Theory of Punishment in Criminal Act of Corruption**

From the perspective theory criminalization , criminalization in case action criminal corruption No only retributive - oriented , but also aims For deterrence , recovery

state losses ( *restorative* ), and learning social so that actions similar No repeating (Muladi & Arief, 2020; Priyatno, 2022) . Approach This in line with development law modern criminal law that combines function repressive and preventive in system criminalization (Nawawi Arief, 2021) .

## **RESULT AND DISCUSSION**

### **1. Application of Article 2 Paragraph (1) of the Law Eradication Criminal Act of Corruption**

Based on Decision Number 105/ Pid.Sus -TPK/2025/PN Surabaya, the panel of judges stated that the defendants proven in a way valid and convincing do action criminal corruption in a way together as arranged in Article 2 paragraph (1) of the Law Eradication Criminal Act of Corruption in conjunction with Article 18 of the same Law in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code . The panel of judges assessed that that the defendants ' actions has fulfil element actions oppose law, enrich self Alone or other people, and result in loss state finances.

Element actions oppose law in case This understood in a way wide. The panel of judges did not only evaluate existence violation to formal procurement provisions goods and services , but also consider substance contrary actions with objective public procurement (Rahardjo, 2021; Wibowo & Wahyudi, 2023) . Deviations procedures and usage other parties in implementation work without base valid law assessed as form actions oppose real law. Approach This in line with jurisprudence The Supreme Court acknowledged draft oppose law material in action criminal corruption (Kristian, 2022) . In some decision Previously , the Supreme Court emphasized that acts that are not formally violate regulation written still can assessed oppose law if contradictory with principle propriety and prudence in management state finances (Suhariyanto, 2023) .

### **2. Legal Considerations of the Panel of Judges and *the Ratio Decidendi***

In amar in its decision, the panel of judges stated that the defendants proven in a way valid and convincing guilty do action criminal corruption as arranged in Article 2 paragraph (1) of the Law Eradication Criminal Act of Corruption in conjunction with Article 18 of the same Law. For the act said, the panel of judges sentenced criminal prison and criminal penalties fines, as well as criminal addition in the form of compensation payment as form recovery loss state finances.

*Ratio decidendi* in decision This based on faith the panel of judges that the defendants ' actions No only violate formal procurement provisions goods and services , but also real contradictory with principle accountability and prudence in

management state finances (Prasetyo & Barkatullah, 2020) . Confidence the built based on fact trial and tools valid evidence, so that the panel of judges assessed that deviation procurement done in a way conscious and systematic since stage planning until reporting work.

Consideration the show that the panel of judges did not stop at fulfillment element normative only , but use approach substantive in evaluate actions defendant (Harahap, 2021) . Approach This in line with doctrine oppose law material , where a actions can assessed oppose law although No in a way explicit prohibited , as long as contradictory with a sense of justice , propriety , and purpose law (Lamintang, 2021; Sutiyoso, 2022) .

### **3. Analysis of Types and Objectives of Criminalization**

In amar the verdict, the panel of judges handed down criminal prison and criminal penalties fine to the defendants, as well as criminal addition in the form of compensation payment as consequence on loss the resulting state finances. The fall criminal addition the reflect orientation recovery state losses as part from objective criminalization action criminal corruption (Priyatno, 2022) . When compared with decision action criminal corruption procurement goods and services others , patterns consideration panel of judges in case This show consistent tendency , namely emphasize on fulfillment element loss state finances and deliberate perpetrator (Arief, 2020) . In several decision court action criminal corruption related procurement at the level area , the panel of judges also emphasized importance proportional punishment with still notice return state losses as criminal addition (Hamzah, 2021) .

From the perspective theory sentencing , verdict This reflect approach criminalization relative-proportional which combines function repressive , preventive special , and restorative (Muladi & Arief, 2020; Nawawi Arief, 2021) . However Thus , the effectiveness effect deterrent Still can debated , especially if magnitude criminal imprisonment and fines Not yet fully reflect impact systemic actions corruption towards governance government village (Utama, 2020; Wibowo & Wahyudi, 2023) . Decision This in line with practice justice in case action criminal corruption procurement goods and services others . In the Decision Supreme Court Number 1554 K/ Pid.Sus /2015, the panel of judges also emphasized that deviation procedure procurement carried out in a way on purpose has fulfil element oppose law in a way material (Kristian, 2022). Similarities pattern consideration the show consistency justice in evaluate corruption procurement as destructive acts governance principles good governance (Suhariyanto, 2023)

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**CONCLUSION**

Based on results analysis, can concluded that consideration law panel of judges in Decision Number 105/ Pid.Sus -TPK/2025/PN Surabaya has implement Article 2 paragraph (1) of the Law Eradication Criminal Act of Corruption in a way appropriate with interpret element actions oppose law in a way formal and material. *Ratio decidendi* decision This confirm that deviation procurement goods and services provided in a way systematic and deliberate is base main fall accountability criminal. In normative, type the sentence imposed has in accordance with provision law positive, but still leaving room evaluation in frame strengthening objective purposeful punishment give effect deterrent

Although in a way normative decision This has in accordance with provision law positive, consideration the panel of judges has not yet in a way explicit linking magnitude criminal with impact systemic action criminal corruption towards governance village government. Therefore that, from perspective objective criminalization, in particular prevention general and effects deterrent, verdict This Still can evaluated so that criminalization No only nature repressive, but also provides message strong for prevention action criminal corruption in the sector procurement goods and services. It is recommended that the panel of judges in case action criminal corruption procurement goods and services in a way consistent consider impact systemic actions defendant towards governance government and trust public to instill a sense of trust society and in line with the values of Pancasila and form a free society from corruption. For the makers policy, required strengthening regulations and mechanisms supervision procurement, in particular related prohibition use company loans and control conflict interests, so as not to There is loss for the countries that arise Because profit personal.

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