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Prosecutor's Actions against Perpetrators of Corruption Criminal acts who Cannot Pay Replacement Money

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Abstract

The purpose of this thesis research is to examine and analyze the steps taken by prosecutors in efforts to recover assets resulting from corruption crimes, specifically in cases where perpetrators are unable to pay replacement money. It also aims to identify and analyze the challenges faced by prosecutors in dealing with such perpetrators. This research is an empirical legal study employing a statutory, conceptual, and sociological approach. Data collection was conducted through interviews in the research area, and the data were analyzed qualitatively using descriptive analysis, interpreted and discussed based on legal theories (doctrines), principles, and regulations concerning asset recovery. The findings of this study reveal several steps undertaken by prosecutors when dealing with perpetrators unable to pay replacement money, including: retracing assets, issuing statements of inability to pay, coordinating with correctional institutions, and preparing execution reports. These steps have been implemented in accordance with existing regulations. However, several obstacles have hindered their effectiveness. Internal factors include limited personnel, insufficient budget, and inadequate infrastructure, while external factors include assets being used as collateral in banks and the accused individuals lacking sufficient assets. This study recommends that the Prosecutor's Office enhance the competencies of prosecutors in asset management and financial analysis to improve the accuracy and thoroughness of asset tracing. Additionally, an integrated information system between institutions should be developed to accelerate access to asset ownership data, and administrative and substitute criminal execution processes should be accelerated to ensure legal certainty.

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Introduction

Indonesia is one of the countries that makes law the basis for regulating national and state life, this is in accordance with what is regulated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the state of Indonesia is a state of law, in this article it becomes the legal basis of the state of Indonesia which is the parent of legal regulations in Indonesia in general. In Article 27 Paragraph 1 Jo. Article 28D Paragraph (1) of the 1945 Constitution of the Republic of Indonesia it is also explained that: "All citizens have equal status before the law and government and are obliged to uphold the law and government without exception and everyone has the right to recognition, guarantees, protection and certainty of just law and equal treatment before the law" ^[1].

¹Indonesia, 1945 Constitution of the Republic of Indonesia, Article 27 Paragraph 1 Jo. Article 28D Paragraph (1).

Based on the text of this article, it can be interpreted that every citizen is obliged to uphold and obey the law and someone who breaks the law must be held responsible for their actions in accordance with the rules of law.

One of the legal issues that has garnered the most attention from the Indonesian public in the past decade is corruption. These corruption cases involve numerous parties from diverse professional backgrounds, including judges, prosecutors, police officers, members of the House of Representatives, governors, mayors, regents, and even businesspeople. Corruption has the potential to cripple national development. In society, this corrupt practice can be found in various modes of operation and can be committed by anyone from all social and economic strata.

Indonesia has had regulations regarding the eradication of criminal acts of corruption since 1971, namely Law Number 3 of 1971 concerning the Eradication of Criminal Acts of Corruption. However, because this regulation was deemed no longer able to follow the development of legal needs in society, Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption was issued, which was then revised through Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in several of its articles. In Article 2 Paragraph (1) of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption 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 economy." Furthermore, in Article 3 of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption also explains corrupt behavior through abuse of authority.

The Corruption Eradication Law is a beacon of hope for the Indonesian people in combating corruption. However, eradicating corruption remains challenging, and efforts to eradicate corruption remain hampered. Corruption has become a chronic, incurable disease that has spread throughout government sectors, even to state-owned enterprises. One way to recover the proceeds of corruption is by imposing additional penalties in the form of restitution. This effort has yielded revenue to the state treasury from the restitution payments received by several convicts who have deposited the restitution payments.

However, in practice, the implementation of substitute money faces various obstacles, especially when the convict does not have the financial ability to pay the amount stipulated in the court decision. This raises new problems at the decision execution stage, because the state cannot recover the losses suffered, while the legal remedies taken by the prosecutor are limited. This problem can give rise to various legal issues, including the effectiveness of substitute prison sentences, because even though a sentence has been imposed, it cannot directly recover the state's losses. This can then create potential disharmony between the principles of restorative justice and the implementation of substitute money sentences, because the state, as the injured party, does not receive concrete redress for the losses incurred. Legal issues related to the confiscation of assets in the name of third parties can also hamper efforts to recover state losses, thus requiring careful handling based on the principles of legality and the protection of legitimate legal rights.

The purpose of compensatory monetary punishment is to punish corruptors as severely as possible to deter them, and to control state finances that are lost due to corruption. One

of the elements of corruption in Articles 2 and 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption is the existence of state or state economic losses. Consequently, the eradication of corruption is not solely aimed at imposing deterrent prison sentences on corruptors, but must also be able to recover the state's losses that have been corrupted. Recovering state losses is expected to be able to cover the state's inability to finance various aspects that are urgently needed.

Compensation money in corruption cases has received little attention for discussion in writing. The problem is quite complex, including the imperfect set of regulations and mechanisms that accompany this issue. One fundamental issue that is very important and requires deeper attention in eradicating corruption is how to recover lost state losses by paying compensation as a result of corruption, whether committed by individuals or corporations. Viewed from the provisions of Article 18 paragraph (1) letter b of Law Number 31 of 1999 as amended by Law Number 20 of 2001, additional penalties as an exception or as a deviation are in the form of payment of compensation money and closure of all or part of the company for a maximum period of 1 (one) year. Compensation money occurs due to a court decision that has permanent legal force (*inkracht*) which is imposed on the convict through the state treasury, state/treasury to be paid or returned to the region/BUMN/BUMD or replaced with corporal punishment (*subsidiary*) if the compensation money is not paid. In Article 34 letter c of Law Number 3 of 1971 and Article 18 paragraph (1) letter b of Law Number 31 of 1999, only replacement money is grouped into one of the additional penalties other than those referred to in Article 10 sub b of the Criminal Code. The law provides special emphasis regarding the amount of replacement money, namely that it is as much as possible equal to the assets obtained from the criminal act of corruption (Article 18 paragraph (1) letter b of Law Number 31 of 1999).

Legally, this must be interpreted as a loss that can be charged to the convict is a state loss that is real and certain in amount as a result of an unlawful act, whether intentional or negligent, committed by the convict. Therefore, it is necessary to have evidence, including expert testimony (as regulated in Article 184 paragraph (1) letter b of the Criminal Procedure Code) that can determine and prove the actual amount of assets obtained by the convict from the criminal act of corruption that he committed. This needs to be done because the determination of additional penalties in the form of payment of replacement money is only limited to an amount equal to the assets obtained by the convict from the proceeds of the criminal act of corruption.

However, if the perpetrator of corruption cannot pay compensation, the state will not be able to recover the losses. Furthermore, compensation will not automatically be paid if the perpetrator has completed their prison sentence. In this regard, the importance of prosecutorial action in pursuing the assets of the perpetrator of corruption, especially the mechanisms used to recover those assets, needs to be highlighted.

The Attorney General's Office of the Republic of Indonesia itself, as one of the law enforcement institutions authorized by law to conduct investigations, prosecutions and implement judges' decisions in corruption cases, has a fairly central role in carrying out asset confiscation. It can be said that the Attorney General's Office is *the leading institution. sector* in

asset confiscation.

The Attorney General's Office is currently intensively implementing corruption eradication by emphasizing the return of state financial losses even from the investigation stage, one of which is with the asset confiscation instrument. Since 2014, the Attorney General's Office has established an Asset Recovery Center (PPA) which is domiciled in the Attorney General's Office and has currently established an Asset Recovery Agency based on the Regulation of the Attorney General of the Republic of Indonesia Number 3 of 2024 concerning the Fourth Amendment to the Regulation of the Attorney General Number PER-006 / A / JA / 07/2017 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia, in addition, the Attorney General's Office has also issued the Attorney General's Regulation Number 7 of 2020 which regulates the guidelines for asset recovery ^[2].

Asset recovery process (*asset recovery*) which begins with asset tracking (*asset tracing*), confiscation, and asset seizure are benchmarks for the success of handling corruption cases within the Attorney General's Office. However, this has not yet had an impact on the regional prosecutor's office as a whole because the Asset Recovery Center work unit does not yet exist at the High Prosecutor's Office or the District Prosecutor's Office.

Therefore, saving state funds and assets is crucial, given the fact that corruption eradication efforts have only recovered 10-15 percent of the total amount of money embezzled. As a criminal law instrument that allows for the recovery of state funds from corruption, this legal instrument is considered a more rational way to achieve the goal of eradicating corruption, namely preventing state losses.

In practice, not all convicts of corruption crimes are able to pay the replacement money as stipulated in the court decision. This creates new problems in the implementation of the execution, because the prosecutor as the executor has the responsibility to carry out the contents of the decision, including the recovery of state losses through the payment of the replacement money. In the case of corruption with decision number 428K / Pid.Sus / 2023, namely the case of the Pier Project in Gili Air by convict ESA, the West Nusa Tenggara (NTB) High Prosecutor's Office experienced obstacles in executing the replacement money of Rp. 617,337,250 (six hundred seventeen three hundred thirty-seven thousand two hundred and fifty rupiah) because the convict did not have sufficient assets. Likewise, in the corruption case with 11 / Pid.Sus -TPK / 2023 / PT.MTR Management of Capitation Funds for the 2017-2019 Period at the Babakan Health Center by convict NWY, the prosecutor had to implement the replacement money in the form of imprisonment because the replacement money of Rp. The convict could only pay half of the Rp190,000,000 (one hundred and ninety million rupiah) fine. This fact demonstrates that in handling corruption crimes, there are legal challenges in implementing compensatory punishment, especially if the convict lacks financial capacity ^[3]. This issue raises questions regarding the steps taken by prosecutors in carrying out the execution, as well as the obstacles and legal

solutions available.

Another case is Withdrawal and Accountability Banyu Urip Village APBDes for the 2019 Fiscal Year with decision number 12/ Pid.Sus -TPK/2023/ Pn.Mtr by convict J, the West Nusa Tenggara (NTB) High Prosecutor's Office experienced obstacles in executing the replacement money of Rp. 346,833,510 (three hundred forty-six million eight hundred thirty-three thousand five hundred and ten rupiah) because the convict did not have sufficient assets to pay the replacement money or his assets had run out.

Based on the background of the problem above, the problem that will be discussed can be formulated as follows: what steps can the Prosecutor take in an effort to return money from corruption crimes to perpetrators who cannot pay compensation and what are the obstacles faced by the Prosecutor for perpetrators of corruption crimes who cannot pay compensation.

Research Methods

Based on description background behind problems and issues formulated by the author, in study This used study law empirical research law empirical done with research in a way direct to field For see in a way direct implementation legislation or rule related laws with enforcement law, as well as do interview with a number of respondents who are considered can give information about implementation enforcement law the.

Researchers will study formulation problem with results interview or data from research conducted at the West Nusa Tenggara High Prosecutor's Office. This describe and analyze related steps taken by the Prosecutor in effort maximize refund of proceeds action criminal corruption to perpetrators who do not can pay compensation and obstacles prosecutor to perpetrator action criminal corruption that is not can pay compensation.

Discussion

Steps Against Corruption Offenders Who Cannot Pay Compensation

Corruption perpetrators who are charged with paying compensation based on a court decision that has permanent legal force (*inkracht*) are obligated to pay the compensation to the state treasury through the Prosecutor's Office as the executor of the decision. In every decision that determines compensation, a clause is generally included regarding the replacement penalty in the form of imprisonment if the convict does not make the payment. However, before the prison sentence is carried out, the executing prosecutor will first ensure the financial condition of the convict, especially to find out whether the convict really does not have any assets or valuables that can be used to pay compensation, or vice versa ^[4].

To strengthen the implementation of asset recovery, the Attorney General of the Republic of Indonesia in 2014 issued Attorney General Regulation Number PER-027/A/JA/10/2014 concerning Asset Recovery Guidelines, which was later amended through the Republic of Indonesia Attorney General Regulation Number 9 of 2019, and most

² Yohanes, *et al.*, 2023, The Role of the Prosecutor's Office in Asset Confiscation in Eradicating Corruption and Obstacles Faced in Its Implementation, UNES LAW REVIEW, Vol. 6, No. 1, p. 3822.

³Mustofa, W., *et al.*, 2023, The Role of Prosecutors in Executing Compensation Payments in Corruption Cases at the Kuantan Singingi District Attorney's Office, Jurnal Hukum.

⁴Interview Results with Mr. Abdiron Luga Harlianto, SH., M.Hum., as Head of the Legal Efforts, Execution and Examination Section in the Special Crimes Sector at the NTB High Prosecutor's Office, on Monday, April 28, 2025.

recently refined through the Republic of Indonesia Attorney General Regulation Number 7 of 2020.

As for the essence of Regulation This is:

- a. That enforcement law criminal, in essence No only aim punish perpetrator action criminal (crime / violation) to become deterrent and not repeat actions, but also purposeful restore losses suffered by the victim in financial consequence from actions perpetrator those, all of which That in accordance the principle of dominus litis is duties and responsibilities answer prosecutor's office as institution prosecutor general public who have function No only as prosecutor but also as implementer decision (*executor*);
- b. On the side other, Prosecutor's Office as state attorney / advisor State law (*solicitor/barrister/government lawyer*) has duties and responsibilities answer give consideration law, assistance law, service law and protection law as well as enforcement law on right right state civil law or public general (eg in case pollution environment) from violation by the party others, especially to losses of a nature financial / material, which must be restored to position originally;
- c. In accordance with position, function, duties and responsibilities answer prosecutor's office as prosecutor general and state lawyers, then recovery losses suffered by victims (state/ individual / corporation / institution / party) others) consequences actions crime / offense criminal or consequence actions oppose law, is the dominus litis authority of the Attorney General of the Republic of Indonesia cq. Attorney General of the Republic of Indonesia (*attorney general*), which is explained in form activity recovery assets;
- d. Optimization recovery asset related / results crime or asset other through activity tracing, securing, maintaining, confiscating and returning asset related action criminal (crime / violation) and/ or asset others, to the state/those entitled ^[5].

In law enforcement practice, if a convict is unable to pay the compensation as decided by the court in a corruption case or other crime that causes state losses, the prosecutor has an important role as the enforcer of the decision.

The process for dealing with perpetrators who are unable to pay compensation is carried out systematically and in stages to ensure that all legal remedies are fully utilized. These steps are as follows:

1) Asset Tracing Back

Asset tracing can begin during the process of identifying elements of a crime, during an investigation to identify suspects and locate assets. The tracing process is essentially divided into three general stages: planning, implementation, and reporting. Asset tracing begins with the issuance of a warrant, and the team then develops a plan based on that warrant.

However, if the perpetrator of the corruption crime is unable to pay the replacement money, then in this asset tracing, the executing prosecutor will conduct a re-tracing of the convict's assets, whether in the name of the individual, family, or third

parties that are suspected of being used to hide assets. In order to conduct the asset tracing, the Prosecutor's Office will request information on assets from:

- a. Ministry of Home Affairs for population data;
- b. Ministry of Education and Culture for educational background;
- c. Ministry of Mining, Energy and Mineral Resources for mining;
- d. National Land Agency (BPN) for land/buildings that have been certified;
- e. The Republic of Indonesia National Police, regarding Motor Vehicle Ownership Certificates (BPKB), Motor Vehicle Registration Certificates (STNK), Driving Licenses, Disturbance Permits, and others;
- f. Financial Transaction Reports and Analysis Center (PPATK) or Bank and Non-Bank Financial Institutions for financial transaction information;
- g. Directorate General of Civil Aviation for information on aircraft ownership and registration;
- h. Directorate General of Sea Transportation for information on ownership and registration of sea vessels;
- i. Directorate General of General Legal Administration regarding company data/deeds;
- j. Directorate General of Immigration, regarding passports;
- k. Directorate General of Taxes, for information on Taxpayer assets, Tax Payable Notification Letter (SPPT);
- l. District Government for information on Land and Building Taxpayers, particularly regarding SPPT and Taxable Object Sales Value (NJOP) of Land and Buildings;
- m. One-Stop Integrated Administration System (SAMSAT)/Regional Revenue Agency (BAPENDA) for motor vehicle tax;
- n. Sub-district/Village Office for information on land/buildings that have not been certified ^[6].

Meanwhile, the completion stage will involve the State Assets and Auction Services Office (KPKNL) and the Ministry of Finance regarding the Determination of Use Status (PSP).

If the convict only partially fulfills their obligation to pay the replacement money, they are still given the opportunity to pay the remaining replacement money either after completing their principal sentence or while serving their replacement prison sentence. This payment is intended to reduce the remaining replacement prison sentence, and a Letter of Redetermination will then be issued regarding the remaining replacement prison sentence that the convict will serve.

However, if the assets of the perpetrator of the corruption crime are truly not found, the executing prosecutor is obliged to make maximum efforts to settle the outstanding compensation by collecting from the convict and the convict's family and continuously tracking the assets so that optimal results are obtained.

Then, optimal efforts in completing the replacement money can be proven by:

⁵Results of an interview with Mr. Abdirun Luga Harlianto, SH., M.Hum., as Head of the Execution and Examination Legal Efforts Section in the Special Crimes Sector at the NTB High Prosecutor's Office (Head of UHEKSI) on Monday, April 28, 2025.

⁶ Results of an interview with Mr. Abdirun Luga Harlianto, SH., M.Hum., as Head of the Execution and Examination Legal Efforts Section in the Special Crimes Sector at the NTB High Prosecutor's Office (Head of UHEKSI) on Monday, April 28, 2025.

2) Asset Tracking Report

- Minutes of Field Check/Research that the convict truly has no assets, signed by the executing prosecutor, the local village/sub-district head, two witnesses near the convict's residential address;
- A certificate from the village head or chief stating that the convict does not have any property that can be confiscated to pay compensation;
- Monthly, quarterly and annual reports of replacement money.

The purpose of asset tracing is to determine the location and type of hidden assets resulting from criminal activity, which will be used to reimburse state losses, information obtained from the Indonesian Attorney General's Office. Asset recovery also serves as a means of restitution for state funds embezzled by convicts ^[7].

3) Submission of Statement of Inability to Pay (D-2)

The next step taken by the executing prosecutor if efforts have been made to optimally trace the assets (*asset tracing*) belonging to the convict or the convict's family but cannot be found, then the executing prosecutor summons the convict (D-1) and asks the convict to fill out a statement of the convict's inability to pay replacement money (D-2).

This statement must also state that the convict has no assets that can be confiscated or auctioned by the state. This letter serves as the administrative basis for the executing prosecutor to proceed to the next stage.

If the convict is unable to pay the replacement money, he must provide accountable evidence prepared by an authorized official explaining this.

Regarding the time for submitting the statement, the executing prosecutor can give the convict an extension of time to submit a statement of inability to pay replacement money, with the following provisions:

a) Valid reasons, such as:

- Impeding health conditions;
- Limited access to law;
- Request from family or legal representative because they are selling assets;
- Administrative barriers from correctional institutions.

b) Extension characteristics

- It is the prosecutor's discretion, it must not hinder execution;
- Made in writing with clear reasons;
- It is time-limited (e.g. 7 days) and can be adjusted proportionally ^[8].

If the extension is used to buy time or if the convict fails to demonstrate good faith, the executing prosecutor has the authority to terminate the tolerance and proceed with the execution of the subsidiary sentence. The executing prosecutor will then prepare a Minutes of the Implementation of the Subsidiary Prison Sentence and a Letter of Determination of the Subsidiary Prison Sentence (SP4), which must be carried out by the convict.

⁷ Results of an interview with Mr. Abdirun Luga Harlianto, SH., M.Hum., as Head of the Execution and Examination Legal Efforts Section in the Special Crimes Sector at the NTB High Prosecutor's Office (Head of UHEKSI) on Monday, April 28, 2025.

4) Coordination with Correctional Institutions

The executing prosecutor will then coordinate with the correctional institution to ensure the convict fully carries out the substitute sentence in the form of a prison sentence (subsidiary) as stipulated in the court decision that has obtained permanent legal force (*inkracht*). This will be done if no assets are found and a statement of inability has been received.

5) Execution Report Creation

The final step is to prepare a complete report on the entire execution process, including the payment of compensation, auction results, and the imposition of subsidiary penalties. This report is submitted to management and relevant agencies as a form of administrative accountability.

With the steps above, the Prosecutor's Office ensures that court decisions are implemented effectively, fairly, and provide legal certainty. This approach also supports the recovery of state losses and emphasizes that monetary penalties are not merely an administrative burden but also a remedial instrument in criminal law enforcement.

Based on the Technical Instructions of the Deputy Attorney General for Special Crimes Number 1 of 2023 concerning Asset Recovery in Handling Corruption Cases, Crimes Causing State Economic Losses, and Money Laundering Crimes, as well as a number of other provisions, namely:

- Letter from the Deputy Attorney General for Action Criminal Special Number B-945/F/ Fjp /05/2018 dated May 4, 2018 concerning Technical Instructions for Handling Patterns Case Action Criminal Special Quality;
- Deputy Attorney General's Instructions for Action Criminal Special Number INS-002/A/JA/02/2019 concerning Handling Patterns Case Action Criminal Special Quality;
- Letter from the Deputy Attorney General for Action Criminal Special Number B-1535/F/Fu.1/05/2004 dated May 23, 2014 concerning Administration Search and Seizure Property of the Convict For Covering Replacement Money;

So, it can be stated that prosecutor executor has operate steps settlement of replacement money and rescue asset in accordance with applicable provisions. However, even though steps the has implemented in a way formal and procedural in accordance with regulations, their implementation in the field Not yet completely optimal due to Still there is various obstacles faced by prosecutors executor in handle cases action criminal corruption, especially in the West Nusa Tenggara region.

6. Obstacles Prosecutors Face for Corruption Offenders Who Cannot Pay Compensation

Efforts to enforce the law on corruption crimes from year to year by the three institutions entrusted with handling them have always encountered obstacles and challenges. Likewise, effort For browse assets the perpetrator who aims For restore state losses that occurred. All of them No let go from existence obstacles and barriers.

As the data has been as stated above, that The NTB High

⁸Results of an interview with Mr. Abdirun Luga Harlianto, SH., M.Hum., as Head of the Execution and Examination Legal Efforts Section in the Special Crimes Sector at the NTB High Prosecutor's Office (Head of UHEKSI) on Monday, April 28, 2025.

Prosecutor's Office is considered not optimal in handle case action criminal corruption whose perpetrators No can pay compensation, things This caused by Because a number of factors, namely :

1. Internal factors

Internal factors are factors originating from from institutions The NTB High Prosecutor's Office consists of : Based on the statement of Mrs. Ely Rahmawati, SH., MM., MH., as Acting Assistant for Special Crimes at the NTB High Prosecutor's Office, the lack of personnel owned by the Special Crimes Division at the West Nusa Tenggara High Prosecutor's Office is one of the main obstacles in the process of handling corruption cases, especially in the stages of tracing and returning assets. Ideally, the number of prosecutors handling one corruption case is around 10 people. However, in reality, in one case sometimes there are only 5 people who can carry out asset tracing. This is very limited when compared to the complexity of the tasks that must be carried out, especially in handling major cases involving significant state losses.

A prosecutor's job isn't limited to a single corruption case. Each prosecutor is responsible for handling numerous public reports, conducting inquiries, compiling case files, and prosecuting the case. In some major cases, state financial losses can reach billions of rupiah and involve networks of perpetrators spanning across regions. Handling such cases requires a thorough investigation, including tracing assets beyond West Nusa Tenggara (NTB), which requires significant time, effort, and expertise.

Due to limited personnel, asset tracing efforts are often suboptimal. This can impact the recovery of state financial losses, which is one of the primary goals of law enforcement against corruption. Furthermore, the disproportionate distribution of the workload can also reduce the effectiveness and accuracy of handling each case, especially when prosecutors must handle multiple cases simultaneously.

Therefore, to increase the effectiveness of corruption eradication and maximize the recovery of state losses, it is necessary to increase the number of personnel, increase human resource capacity, and provide a more structured division of tasks within the NTB High Prosecutor's Office ^[9].

A. Limitations budget

According to Mr. Chalis Al Rossi, Head of the Asset Settlement Subdivision within the Asset Recovery Division at the West Nusa Tenggara High Prosecutor's Office, the lack of a budget for executing seizures is also an internal obstacle. ¹⁰Although the task of executing seizures falls under the prosecutor's authority, in practice, there is no specific budget allocation to support its implementation. Many activities that should be part of law enforcement are not covered by the budget.

The ideal budget for a single asset tracking activity is a minimum of 15 million Rupiah per case, with *real-cost* usage (the budget doesn't have to be exhausted) but based on needs. For example, if the asset tracking activity is confined to a local area, the cost could be less than 15 million Rupiah, with a breakdown of three objects in one case. However, if the activity involves activities outside the region, the budget

could exceed 15 million Rupiah per case.

Therefore, it is necessary to carry out more comprehensive budget planning and allocate it specifically for execution seizure activities so that the implementation of these tasks can run optimally.

B. Limitations support facilities and infrastructure

To determine the whereabouts of assets belonging to suspects, defendants, or convicts that can be confiscated and then auctioned to cover the compensation imposed on the convict, its success is certainly inseparable from the support of sophisticated infrastructure. Currently, the tracking activities carried out by the NTB High Prosecutor's Office are still conventional, by requesting information from relevant agencies such as the National Police, the National Land Agency (BPN), the Samsat (State Vehicle Tax Office), and so on, as well as from Village Heads/Heads of Neighborhoods. Tracking asset Not yet done with use technology adequate information.

Limitations other namely appear in matter foreclosure assets, especially those in the form of share crypto. Although has There is a number of regulations governing procedures foreclosure asset crypto, in in practice Still there is doubt related ability technical prosecutor in understand and handle digital assets. Crypto assets that are closed relatively more easy confiscated Because ownership clear, but If asset the nature open (owned) shared by many parties), then will complicate the confiscation process Because concerning interest Lots party.

The necessary solution taken is improvement competence prosecutor through training special about digital assets as well compilation guidelines more technical operational For support implementation field work.

2. External Factors

External factors is factors originating from from outside institutions prosecutors, including:

a. Regulations regarding Mortgage Rights are not yet clear.

Externally, unclear regulations also pose a challenge, particularly regarding the management of mortgages in the context of auctions. Several cases in the West Nusa Tenggara (NTB) region have seen assets used as mortgages at banks. In some cases, prosecutors have blocked assets subject to mortgages at banks. However, this action actually hinders banks from conducting auctions, as the legal status of the assets becomes uncertain. Furthermore, there are no regulations governing the distribution of auction proceeds between the prosecutor's office and banks. To address this, clear regulations regarding mortgage management, as well as technical agreements between the prosecutor's office and banks, are needed regarding auction procedures and the use of proceeds.

b. Yield assets action criminal corruption limited or treasure the object finished.

The convict's assets or acquired objects have been used up or the assets were sold first to pay for the case, for example, when a person suspected of committing a criminal act of

⁹Results of an interview with Mrs. Ely Rahmawati, SH., MM., MH., as Acting Assistant for Special Crimes at the NTB High Prosecutor's Office on Friday, July 4, 2025.

¹⁰Results of an interview with Mr. Chalis Al Rossi, SH., MH. as Head of the Asset Settlement Sub-Division in the Asset Recovery Sector at the NTB High Prosecutor's Office on Thursday, May 8, 2025.

corruption must be accompanied by a professional legal advisor, or the assets have been used up because they have been used and wasted for the convict's pleasure. It can be concluded that if the convict cannot pay the replacement money, then the efforts of the executor prosecutor, namely the convict, will be given a replacement sentence, namely imprisonment for a period determined according to the state losses that he corrupted.

Handling of cases involving perpetrators with limited assets or no assets at all after conducting an asset search, namely the convict is declared unable to pay the replacement money so that a Statement of Inability to Pay Replacement Money (D-2) and a Letter of Determination of Substitute Prison Sentence (SP4) are issued to then serve a Subsidiary Prison Sentence ^[11].

c. Yield assets action criminal corruption obscured or diverted to other parties.

The transfer of assets resulting from corruption to a third party using another person's name, as explained in the paragraph above, is part of a Money Laundering (TPPU) scheme. In TPPU, the perpetrator make an effort hide or disguise origin assets originating from from results action criminal corruption to appear legitimate in a way law. One of the common techniques used is put asset or funds in the name of another party (*nominee*), such as wife, children, maid House stairs, friends close, up to neighbors, including borrow identity For open account or buy assets.

In terms of asset results action criminal corruption diverted, disguised, or in the name of to party otherwise, then whoever his name is listed as owner on asset the No in a way automatic get protection law in the judicial process. This is caused by Because action the has fulfil elements Action Criminal Money Laundering (TPPU), namely hide or disguise origin proposal treasure wealth that comes from from crime, in matter This corruption. This is listed in Article 5 Paragraph (1) of the Law Number 8 of 2010 concerning Prevention and Eradication Action Criminal Money Laundering which reads,:

“(1) Every person who receives or control placement, transfer, payment, grant, donation, safekeeping, exchange, or use Treasure The wealth he knows or worthy allegedly is results action criminal as intended in Article 2 paragraph (1) shall be punished with criminal imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 1,000,000,000.00 (one billion rupiah)” ^[12].

Diversion asset to party third, including family, relatives, and close people perpetrator, is a common mode done in frame blur relatedness asset with action criminal origin. Therefore that, although asset recorded on behalf of the party other, as long as can proven that asset the originate from results action criminal corruption and only borrowed name or his identity (*nominee*), then party the still can asked accountability criminal, or at least, assets the still can confiscated For state interests.

With Thus, efforts disguise or diversion asset to the other party does not only No give protection law, but precisely potential drag parties the to in circle TPPU law, both as

perpetrator main, participate as well as, and as the party that helps hide results crime.

In addition, if asset results corruption has diverted to abroad, then TPPU scheme becomes the more real, because perpetrator has move results crime cross jurisdiction in order to avoid confiscation. In the context of this, the process of proof and confiscation asset must follow laws and procedures of the country where asset the located. Procedure across countries in handling of TPPU is very complicated Because need Work internationally, namely *Mutual Legal Assistance* (MLA), as well as coordination with representative diplomatic like embassy big.

With Thus, the patterns diversion asset the No only indicates action criminal corruption, but also strengthens elements money laundering as action criminal continued, which is necessary handled in a way serious, structured, and involving approach cross sector as well as across countries. Therefore that, approach enforcement law that combines handling corruption and TPPU in general integrated become very important For restore loss state finances in general maximum ^[13].

d. Yield assets action criminal corruption guaranteed to party third or other parties

Tangible assets still in the form of land and buildings as well as object No still in the form of vehicle or asset other has become guarantee to other parties, namely institution bank finance or institution non-bank finance.

Sometimes There is asset convicts who have not been can confiscated due to asset in the form of occupied house No own appropriate certificate. Certificate the is existing house next to house occupied by the convict.

Then, there are also convicts own vehicle in the form of car, but car the currently during the credit period. Related matter said, then prosecutor investigator will do effort with method send letter application to parties related like Samsat, Dispenda or BPN ^[14].

e. Perpetrator action criminal corruption has die

Action assets criminal corruption Still is at in hand perpetrator However perpetrator action criminal corruption the has died. This cause prosecutor investigator and prosecutor investigator difficulty For browse asset said. This is Can happen due to all form asset on behalf of the perpetrator who has die the Already switch to other parties who do not known or when shaped bank accounts will be difficult traced Because Already closed.

Application of Article 83 of the Criminal Code to convicts who have died and have not been pay compensation as well as Not yet undergo criminal subsidiary so obligation pay the replacement money charged to convict is unpaid state receivables collectible. State receivables will delete if has paid or dihpaus based on decision deletion receivables from authorized official as Regulation Government Number 14 of 2005 concerning Procedures for Deletion State/Regional Receivables, or has finished undergo criminal subsidiary as amar decision the court that has powerful law still. In civil law, expert inheritance shoulder the debts of the heirs in a

¹¹ Results of an interview with Mr. Chalis Al Rossi, SH., MH. as Head of the Asset Settlement Sub-Division in the Asset Recovery Sector at the NTB High Prosecutor's Office on Thursday, May 8, 2025.

¹²Indonesia, Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, Article 5 Paragraph (1).

¹³ Results of an interview with Mr. Chalis Al Rossi, SH., MH. as Head of the Asset Settlement Sub-Division in the Asset Recovery Sector at the NTB High Prosecutor's Office on Friday, July 4, 2025.

¹⁴Interview Results with Mr. Mohamad Isa Ansyori, SH., MH. as Head of the Asset Tracing and Confiscation Sub-Division in the Asset Recovery Sector at the NTB High Prosecutor's Office on Thursday, May 8, 2025.

way balanced with the inheritance he received as per Article 1100 of the Civil Code ^[15].

Therefore that, if convict Not yet pay compensation and die before undergo criminal replacement money subsidiary, requested Head The District Attorney's Office and the Head of the District Attorney's Office Branch, for :

- 1) Keep doing search to treasure object owned by convict with issue a warrant Search Property of the Convict (P-48A)
- 2) Coordinate with the injured agency consequence actions convict For provide / make a Special Power of Attorney (SKK) to the State Attorney for done lawsuit civil to expert inheritance convicts, as the provisions stipulated in the Attorney General's Letter Number: B-020/A/JA/04/2009 dated April 8 2009 regarding Procedures for Settlement of Fines and Replacement Money in Case Action Criminal Corruption in point II Number 6.

Article 32 of the Law Number 31 of 1999 concerning Eradication Action Criminal Corruption as has changed with Constitution Number 20 of 2001 concerning Eradication Action Criminal Corruption in essence mention that in matter investigator find and argue that One or more element action criminal corruption No there is Enough evidence, whereas in a way real has There is loss state finances, then investigator quick deliver file case results investigation the to the State Attorney for done lawsuit civil or handed over to the injured agency For submit lawsuit. Meanwhile, Article 32 paragraph (2) of the Law Number 31 of 1999 concerning Eradication Action Criminal Corruption as has changed with Constitution Number 20 of 2001 concerning Eradication Action Criminal Corruption give reason For submitted lawsuit civil to case action criminal corruption that was decided free.

Furthermore, Article 33 of the Law Number 31 of 1999 concerning Eradication Action Criminal Corruption as has changed with Constitution Number 20 of 2001 concerning Eradication Action Criminal Corruption also provides base law about robbery asset results action criminal corruption through track lawsuit civil case where the suspect is died at the matter currently investigated and from investigator the has found existence loss State finances. Lawsuit civil the will submitted to expert his heirs, of course lawsuit the can intended to asset results corruption or lawsuit change make a loss to loss state finances due to actions suspect the.

The provisions as mentioned above give authority to the State Attorney or the injured agency to file a civil lawsuit against the convict and/or his/her heirs at a time in accordance with the provisions as referred to in each of the Articles.

Thus, through a civil lawsuit, state attorneys can still file a lawsuit for corruption if the perpetrator dies, is acquitted, or no criminal elements are found, but state losses are clearly incurred. This would allow the state to recover losses without first having to go through a criminal process.

In terms of convict passed away, Field Civil and State Administration will do effort negotiation with expert inheritance regarding replacement money. However, the problem is namely many expert heirs who have move address so that matter the result in No optimally role from Field Civil and State Administration in effort search assets and recovery

loss state finances.

Based on the above obstacles, there are other consequences if the perpetrator of a criminal act of corruption cannot pay the replacement money, including:

1. Inadequate budget allocation specifically for execution seizures. As a result, many assets resulting from corruption cannot be traced or seized to their full potential crypto assets, the technical capabilities of prosecutors in understanding and handling this type of asset are still very limited.
2. In many cases, these assets have been transferred to third parties by transferring them to family, friends, or other close associates. These transfers are often difficult to prove legally because they involve a change in ownership, and those in control of the assets often seek legal protection in court.
3. Assets to be confiscated have been used as collateral for credit or do not match the existing documents, for example vehicles that are still in the credit process or house certificates that do not match the location occupied by the convict, causing the prosecutor to have to go through a longer and more complicated process, such as sending letters to the relevant agencies (Samsat, Bapenda, BPN) which are not always quick to respond.
4. Decreased public trust in law enforcement. When the law enforcement process fails to recoup state financial losses and provides a strong deterrent effect on perpetrators, the public image of the prosecutor's office and the justice system in general is weakened.
5. Failure in tracing and recovering assets also results in the failure to achieve a deterrent effect. Corruption perpetrators may feel they can still enjoy the proceeds of their crimes or avoid paying compensation simply by transferring or diverting assets before legal proceedings begin. This is certainly very detrimental to efforts to eradicate corruption comprehensively and systematically.

Therefore, concrete steps are needed to improve the situation, starting with strengthening internal capacity, improving regulations, utilizing information technology, and enhancing cross-institutional and international cooperation. Only with a comprehensive and integrated approach can law enforcement and recovery of state losses due to corruption in West Nusa Tenggara be more optimal and produce tangible results.

Closing

A. Conclusion

Based on research, prosecutor The executor has carried out procedures for settling compensation and salvaging assets in accordance with regulations, but implementation in the field has not been optimal due to various obstacles, particularly in the West Nusa Tenggara region. Based on this data, it is known that recovery loss state finances due to action criminal corruption by the Mataram District Attorney's Office less than 50% of the total state losses that occurred and the average assets of the convicts the finished and also made into right liability in the bank so that constraint that causes the prosecutor's steps are not can be optimal in search assets perpetrator action criminal corruption as well as return and

¹⁵Interview Results with Mr. Mohamad Isa Ansyori, SH., MH. as Head of the Asset Tracing and Confiscation Sub-Division in the Asset Recovery Sector at the NTB High Prosecutor's Office on Thursday, May 8, 2025.

recovery asset case action criminal corruption due to a number of internal factors and external factors external challenges faced by the West Nusa Tenggara High Prosecutor's Office. Suboptimal matter can also be concluded that the state is a victim of an act criminal corruption No can accept his rights return.

B. Suggestion

To improve the effectiveness of prosecutors' actions in handling corruption perpetrators who fail to pay restitution, the Prosecutor's Office needs to strengthen cross-agency coordination, particularly in the process of tracking and verifying assets, including assets hidden in the names of third parties. Furthermore, it is important to strengthen prosecutors' competencies in asset management and financial analysis to ensure more accurate and comprehensive asset tracking. An integrated information system across agencies is also needed to expedite access to asset ownership data and to accelerate the administrative process and execution of substitute sentences to ensure certainty law. For overcome Given the internal and external constraints faced by prosecutors, it is recommended that budgets and competent human resources be increased in specialized criminal areas, including training on digital assets such as crypto. Central and regional governments need to strengthen regulations and accelerate bureaucratic reform so that relevant agencies can be more responsive in supporting asset tracing and recovery. Furthermore, ongoing public education is needed to rebuild public trust in law enforcement officials, as well as strengthen prevention and early detection systems to minimize future state losses due to corruption.

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