

**ANALYSIS OF JUDGMENT CONSIDERATION OF PROSECUTOR GENERAL
PROSECUTORS BASED ON INTERLOCUTORY DECISION
(Case Study Of The Corruption Court Decision In The Kupang District Court Number:
28/Pid.Sus-TPK/2018/PN.Kpg and Number: 37/Pid.Sus-TPK/2018/PN.Kpg)**

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ABSTRACT

The interlocutory verdict is a verdict before the principal examination of the case. In the consideration of judges for one case with two case numbers, there were two types of interlocutory decisions. The problem examined in this paper is How is the basis for consideration of the panel of judges rejecting the charges of the Public Prosecutor based on Interim Decision Number 28/Pid.Sus-TPK/2018/PN.Kpg and Interlocutory verdict Number 37/Pid.Sus-TPK/2018/PN.Kpg Corruption Court at the Kupang District Court? This type of research is a normative research using a literature study approach. The results of the study found that in imposing a judgment the judge used a different interpretation of one case with two case register numbers. Therefore it is suggested that there is a need for coordination and assertiveness among all judges as outlined in the form of a collective agreement in the case of a verdict so that they do not give space to the prosecutor in the case that the court is made as a place for achievement.

Keywords: *prosecutor's indictment, judge considerations, interim verdict*

INTRODUCTION

The judge in deciding a case must be based on the right reasons and legal basis so as not to be mistaken in making a decision. Likewise with other law enforcement agencies such as prosecutors. The prosecutor as the public prosecutor is one element of law enforcement based on Article 38 of Law Number 48 Year 2009 concerning Judicial Power. After the Public Prosecutor (JPU) has submitted a complete criminal action case file (P-21) then based on Article 143 paragraph (1) KUHAP in conjunction with Article 27 paragraph (1) and paragraph (7) of Law Number 46 of 2009 concerning the Court of Acts Criminal Corruption, hereinafter the Chairperson of the Court after 3 (three) days receives the transfer of cases of corruption, determines the composition of the panel of judges, the Chairperson of the Panel of Judges after receiving the stipulation letter and case file no later than 7 (seven) days conducting the first hearing in charge of examining the defendant and listen to the prosecutor's indictment.

The indictment formulated by the prosecutor must be as well as possible, so that the indictment is perfectly arranged because it has fulfilled the requirements as contained in Article 143 paragraph (2) of the Criminal Procedure Code fulfills formal and material requirements. Meeting formal requirements means that they are dated, signed by the Public Prosecutor and contain the identity of the defendant or the defendants, and the material requirements are a description that must be accurate, clear and complete regarding the crime. Failing to meet these requirements will open opportunities for legal counsel and or defendants to submit objections or exceptions.

Previously, it is necessary to explain briefly the position case, where in the 2013 Draft Regional Budget and Revenue Expenditure (RAPBD), the Regional Government of Alor Regency experienced delays in the adoption of the RAPBD, where as of February 2013, the RAPBD for the 2013 Fiscal Year was not yet approved by the House of Representatives Alor Regency (DPRD) so that Ahmad Maro as the Secretary of the Board at the DPRD then prepares a sum of money to be given to the Budget Board of the Alor Regency DPRD so that the 2013 Budget Year RAPBD will be ratified immediately.

The giving of money which was in the form of a cash advance for the 2013 Alor Regency DPRD Secretariat Office, which was handed over by defendant Ahmad Maro to the Members of the Alor Regency DPRD Budget Board was Rp. 500,000,000.00 (five hundred million rupiahs) is not used in accordance with its designation, namely as Money Supply (UP) or routine operations at the Alor Regency DPRD Secretariat Office, but to be given to Members of the Alor Regency DPRD Budget Board, without clearly mentioned in the letter the indictment, in order to obtain the endorsement of the RAPBD referred to and in the end became a legal matter by being charged by the Alor District Prosecutor 2 (two) times with the essence of the same defendant and subject matter.

First is the Alor Prosecutor's Indictment with the Indictment Letter No. Reg. Perk: PDS-03/KLBHI/07/2018 dated July 31, 2018 can be described as follows:

1. Regarding the defendant's actions in relation to the request and disbursement of funds in the form of money in the amount of Rp. 500,000,000.00.
2. Regarding the application of Article 2 in conjunction with Article 3 of the Anti-Corruption Law in relation to the element of enriching oneself or another person or a corporation and an element with the purpose of benefiting oneself, another person or a corporation.
3. Regarding the application of Articles 8 and 9 of the Anti-Corruption Law in the Indictment.
4. Regarding the application of Article 18 of the Anti-Corruption Law in the Indictment.

The first indictment of the Public Prosecutor was prepared in an alternative manner in which the statement stated that the defendant Ahmad Maro was charged with committing 2 (two) criminal acts at once, namely bribery to the Members of the Alor Regency DPRD Budget Board and marking up the Money Supply in Advance, bribing the Members of the Agency The Alor Regency DPRD budget and embezzled Money Supply Extensions, and falsified cash disbursements, but the Public Prosecutor only accused defendant Ahmad Maro of violating one act as Primair's First Indictment Article 2, Subsidair Article 3, or Second Article 8, or Third Article 9 of the Corruption Crime Act , so it becomes unclear and confusing whether the defendant Ahmad Maro was charged as a person who committed bribes to the Members of the Alor Regency DPRD Budget Board or as the person who marked up the Money Supply Reserves, or as the person who embezzled the Money Supply Reserves, or as the person who committed forgery disbursement of cash or as a person who did both at the same time, it is certainly very difficult for the Panel of Judges to examine and try this case and make it difficult for the defendant to defend himself.

Based on the consideration of the Panel of Judges consideration, the indictment of the Public Prosecutor did not describe accurately, clearly and completely regarding the criminal act charged to the defendant Ahmad Maro, so the indictment of the Public Prosecutor did not meet the material requirements as specified in Article 143 Paragraph (2) letter b of the Criminal Procedure Code. The Panel of Judges in the verdict which essentially stated the indictment of the public prosecutor against the defendant Ahmad Maro could not be accepted. It should be based on the provisions of Article 143 Paragraph (2) letter b of the Criminal Procedure Code, indictment that does not meet the provisions referred to in paragraph (2) letter b (a careful, clear and complete description of the criminal act charged with mentioning the time and time the crime was committed) is declared null and void.

The second indictment of the prosecutor is with the indictment number Reg. Perk: PDS-03/KLBHI/07/2018 dated September 13, 2018 can be described as follows:

1. Concerning the actions of the defendant charged with Article 2 juncto Article 3 in relation to the element of enriching oneself or another person or a corporation as well as an element with the purpose of benefiting oneself, another person or a corporation Juncto Article 55 paragraph (1) of the 1 Book Criminal Law (hereinafter abbreviated as KUHP).
2. Regarding the application of Article 8, Article 9 and Article 5 Paragraph (1) of the Corruption Act in the Indictment Letter.
3. Regarding the application of Article 18 of the Anti-Corruption Law in the Indictment.
4. Regarding the application of Article 55 Paragraph (1) of the Criminal Code in connection with the determination of legal subjects responsible for disbursing and providing funds in the amount of Rp 500,000,000.-.

The basis for consideration of the panel of judges of the Corruption Criminal Court at the Kupang District Court in its interim decision, namely the Criminal Procedure Code Article 143 Paragraph (2) letter b which explicitly regulates the material requirements of the

indictment prepared must be accurate, clear and complete describing the criminal acts charged with mention the time and place the crime was committed.

In addition, the panel of judges' consideration relates to a careful, clear and complete understanding of the criminal acts charged in the indictment as explained in the Supreme Court Jurisprudence of the Republic of Indonesia Number: 1289 K/Pid/1984 dated June 26, 1987 juncto Number: 1301 K/Pid/1985 March 30, 1989 juncto Number: 2436 K/Pid/1988 May 30, 1990 Juncto Number: 779 K/Pid/1985 dated August 22, 1990 Juncto Number: 350 K/Pid/1990 dated September 30, 1993 was clearly understood and the consequences for indictment which is inaccurate, clear and incomplete describing the criminal act that was charged namely the indictment is null and void, so that in the verdict the panel of judges in principle stated the indictment of Public Prosecutor No. Reg. Perk: PDS-03/KLBHI/07/2018 dated 13 September 2018 null and void. This is interesting, because the Public Prosecutor re-submitted the case file after the first Revised Indictment took into account the considerations of the judge's decision in the Interlocutory Decision, but the Indictment was still rejected with an amendment which was essentially canceled by law.

The author is interested in raising material about the refusal of 2 (two) times the Alor State Prosecutor's Office, East Nusa Tenggara, with the following considerations:

1. That the event of receipt of an exception for a corruption case is very rare, according to the data obtained by the author for a period of more than 4 years (2015 to 2018) there are only 3 (three) exception cases that have just been received by the Kupang Corruption Court Judge Panel.
2. Interim Decision of the first Panel of Judges Number: 28/PID.SUS-TPK/2018/PN.Kpg dated September 4, 2018 related to the refusal of the first charge of taggal 31 July 2018 the core of the amar was essentially unacceptable as a breakthrough because in its decision stated returning the case file corruption in the name of the defendant Ahmad

Maro by the Public Prosecutor at the Alor State Prosecutor's Office or with the meaning based on Article 156 paragraph (1) as a form of being unable to receive an indictment, if it refers to Article 143 paragraph (3) in conjunction with Article 143 paragraph (2) letter b The Criminal Procedure Code should have an interlocutory verdict declared null and void by law.

3. The Public Prosecutor after the first interim decision handed over his indictment on September 13, 2018 and again the Panel of Judges refused through Interlocutory Decision Number: 37/PID. SUS-TPK/2018/PN.Kpg dated October 11, 2018 with a core of null and void by law.

Implications for the decision of the panel of judges who rejected the indictment with Interlocutory Decision Number 28/Pid.Sus-TPK/2018 /PN.Kpg, which granted the exception of the objection of the Defendant's Legal Counsel which meant releasing the defendant from detention, stating that the Public Prosecutor's Indictment against the Defendant was not can be accepted and return the case file to the prosecutor, while Interim Decision Number 37/Pid.Sus-TPK/2018/PN.Kpg is to grant the exception of the objection to the Defendant's Legal Counsel which means to release the defendant from custody, stating the indictment of the public prosecutor against the defendant null and void by law and examination of corruption cases Number 37/Pid.Sus-TPK/2018/PN.Kpg terminated.

ISSUE

Based on the background of the above problems, the legal dispute discussed in writing this thesis is How is the basis for consideration of the panel of judges rejecting the prosecutor's indictment based on Interlocutory Decision Number 28/Pid.Sus TPK/2018/PN.Kpg Corruption Court at the Kupang District Court?

METHOD

The type of this research is normative research or library research or in other words research using a nominative juridical approach (Lastuti Abubakar, 2013, 4). Ananlisisi technique used in this study is a qualitative analysis with descriptive decomposition (exposure) (Aidul Fitriciada Azhari, 2012 : 4). The descriptive qualitative analysis used in this paper provides the consideration that not only is intended to reveal or describe the data collected as is, but the primary legal material, secondary legal material, and study material documents or existing literature will be checked and re-checked (triangulation) to find the midpoint and accuracy of opinions from various views so as to produce a conclusion (Nugroho, 2017: 4).

Viewed from the standpoint of its nature, this research is a descriptive analytical approach, meaning that the results of this study try to describe thoroughly, deeply about a situation or symptom under study. The normative approach is intended to conduct a thorough document study in answering the problem or legal problem being studied. In this study the legal materials used are primary, secondary and tertiary legal materials. To analyze the data used qualitative analysis. Qualitative data analysis begins by preparing and organizing for analysis, then reducing the data to a theme through the process of summarizing, and finally presenting data in the form of charts, tables or discussions.

DISCUSSION

1. The Basis For Consideration Of The Panel Of Judges Rejecting The Prosecutor's Indictment Based On Interlocutory Decision Number : 28/Pid.Sus-TPK/2018/PN.Kpg and Interlocutory Decision Number : 37/Pid.Sus-TPK/2018/PN.Kpg

Talking about the judge's consideration in the award, especially in interim measure, it can be interpreted that the interlocutory decision is a decision handed down by the Judge before the judge examines the subject matter in both the criminal and civil cases. or legal

counsel. The exception made by the Defendant's Legal Counsel usually plays an important role for the passing of the interim decision by the Case Inspector. According to article 185 clause 1 HIR states that a decision which is not a final decision, even if it needs to be pronounced in a trial as well, is not made individually, but only made in a notice of trial. The interlocutory verdict is also not a final verdict, wherein this interim ruling applies until there are other more binding decisions.

If the interlocutory decision takes the form of a decision, the Prosecutor or Public Prosecutor may submit his case directly to the Court, which has the authority to adjudicate. Whereas in the event that the decision takes the form of an interim decision containing a rejection of the Exception, the Judge shall proceed with the case by ordering the Prosecutor or the Public Prosecutor to immediately submit the evidence. However, if the interim decision is in the form of a final decision, then the effort that can be carried out by the Prosecutor/Public Prosecutor is to conduct a verification, appeal or appeal in accordance with the contents of the decision. Whereas the interim decision is a mechanism in the judicial process in our country which must uphold its existence and function.

Based on the brief description above, before discussing further the writer will try to describe the chronology of the case based on Interim Decision Number 28/Pid. SUS-TPK/2018/PN.Kpg which was sentenced was null and void.

1) Interim Decision Number: 28/PID.SUS-TPK/2018/PN.Kpg

a. The Identity Of The Perpetrator

Full Name	: Drs. Ahmad Maro
Place of Birth	: Bota Alila, Alor Regency
Age / Date of Birth	: 56 Years/December 14, 1961
Male	: Gender
Nationality	: Indonesian
Residence	: BTN Bungawaru RT. 04 RW. 02 Kalabahi Timur Subdistrict, Teluk Mutiara Subdistrict, Alor Regency
Religion	: Islam
Occupation	: Retired State Civil Apparatus (ASN)
Education	: S-1 (Social Welfare)

b. Case Chronology

- 1) Based on Alor Regent Decree Number: BKD.821.2/087/2012 dated 19 November 2012, the Defendant Drs. Ahmad Maro served as Secretary of the Alor Regency DPRD from November 19, 2012 to September 4, 2014;
- 2) Based on Alor Regent Decree Number: 078/HK/KEP/2013, dated April 15, 2013, concerning Appointment/Determination of Budget Users/Proxy of Budget Users, Revenue Treasurers, Expenditure Treasurers, Expenditures Treasurers, Assistant Revenue Treasurers and Auxiliary Expenditures for Fiscal Year 2013, Alor Regency DPRD Secretariat has been appointed and determined:
 - a) Drs. Ahmad Maro as a Budget User.
 - b) Mufaza Husna, A.Md. as Treasurer of Expenditures.
 - c) Abia Maipada as Treasurer of Assistant Expenditures.
 - d) Adriana K. Sinaweni as Treasurer of Assistant Expenditures.
 - e) Fredrik H. Donuisang as Treasurer of Assistant Expenditures.
- 3) Based on Alor Regent Decree Number: 078/HK/KEP/2013, dated April 15, 2013, the Defendant Drs. Ahmad Maro as the Budget User has the task
 - a) Prepare RKA-SKPD;
 - b) Preparing DPA-SKPD;
 - c) Take actions that result in expenditure on the burden of the budget;
 - d) Carry out the SKPD Budget that it leads;
 - e) Conduct testing of bills and order payment;
 - f) Carry out non-tax revenue collection;
 - g) Establish a cooperative agreement/agreement with another party the stipulated budget limit;
 - h) Sign the SPP and SPM;

- i) Manage debts and receivables that are the responsibility of the SKPD they lead;
 - j) Prepare and submit SKPD financial reports they lead;
 - k) Oversee the implementation of the SKPD budget they lead;
 - l) Carry out supervision/inspection of treasurer cash books every quarter by loading minutes of cash checks on the use of the SKPD budget;
 - m) Appointing the Technical Implementation Activity Officer (PPTK) to carry out one or several activities from one program according to their area of work;
 - n) Appoint the Financial Administration Officer of the Regional Work Unit (PPK-SKPD) to carry out the financial administration function within the working environment as PPK-SKPD;
 - o) Appoint the Assistant Treasurer of Receipts and Assistant Treasurer of Expenditures in assisting the Treasurer of Receipts and the Treasurer of Expenditures to record the receipt and recording of expenses in the Cash Book and other records;
- 4) For the 2013 Fiscal Year, there was a delay in the stipulation of the Alor Regency RAPBD where as of February 2013, the Alor Regency RAPBD for the 2013 Fiscal Year had not yet been approved by the Alor Regency DPRD so Drs. Ahmad Maro then prepared a sum of money to be given to the Alor Regency DPRD Budget Board so that the Alor Regency APBD of the 2013 Budget Year was immediately ratified;
- 5) Furthermore the Defendant Drs. Ahmad Maro as Secretary of the DPRD Alor made a Staff Review dated February 27, 2013, regarding Requests for Additional Inventory Funds to support the activities of the Alor Regency DPRD Secretariat, which was submitted to the Alor Regent for the disbursement of the Supply

Money Extensions (UP) in the amount of Rp. 500,000,000.00 (five hundred million million rupiah). Following up on the Staff Review, for budget disbursement, Mufaza Husna, A.Md., as the Treasurer of Assistant Expenditure, made the following documents:

- a) Request for Payment of Inventory Money (SPP-UP) Number: 02/900 / SPP / 175/2013, dated March 1, 2013, signed by the Spending Treasurer of the DPRD Secretariat on behalf of Jou Ali, the Amount of Payment requested is Rp.500,000,000, 00 (five hundred million rupiah);
 - b) Payment Order (SPM) for Fiscal Year 2013, SPM Number: 02/UP/175/2013, dated March 1, 2013, signed by Defendant Drs. Ahmad Maro as Secretary of the Alor Regency DPRD, worth Rp. 500,000,000.00 (five hundred million rupiah).
- 6) Then the complete budget disbursement documents submitted to the Regional General Treasurer for disbursement. Following up on the SPP-UP and SPM, the Regional General Treasurer issued a Fund Disbursement Order (SP2D) for Fiscal Year 2013 Number: 086.P/SP2D/UP/2013, dated March 4, 2013, with the amount paid of Rp500,000,000.00 (five hundred million rupiah), where Inventory Deposit in the amount of Rp. 500,000,000.00 (five hundred million rupiah) is then entered into the NTT Bank account Number: 013 02.01.002691-4, on behalf of the Treasurer Setwan Alor/Routine Regency on March 6, 2013 ;
- 7) Furthermore Mufaza Husna, A.Md. as the Treasurer of Spending Expenditures make a withdrawal of Supply Money in Advance of Rp. 500,000,000.00 (five hundred million rupiah) from NTT Bank account Number: 013 02.01.002691-4 on behalf of Treasurer Setwan Alor Regency/Routine on Wednesday March 6 2013 by way of Mufaza Husna, A.Md. bring a withdrawal slip from the NTT Bank that

was signed by Jou Ali as the Treasurer of Expenditures, wherein the slip Jou Ali only signed without writing down the amount of money to be withdrawn. Then Mufaza Husna, A.Md. wrote down the amount of money to be withdrawn, namely Rp.500,000,000.00 (five hundred million rupiah).

- 8) After Mufaza Husna, A.Md. withdrawing the Supply Money in the amount of Rp. 500,000,000.00 (five hundred million rupiah) from the account of the Alor Regency DPRD Secretariat Office, Mufaza Husna, A.Md. then handed over the money to Defendant Drs.Ahmad Maro as Secretary of the Alor Regency DPRD in the Defendant's office Drs. Ahmad Maro. Subsequently the money was received by Defendant Drs.Ahmad Maro and then Defendant Drs. Ahmad Maro signed a receipt for the money dated March 6, 2013 amounting to Rp500,000,000.00 (five hundred million rupiah). Then the Defendant Drs. Ahmad Maro handed back the money to Mufaza Husna, A.Md., where the Supply of Money Panjar was supposed to be used to carry out day-to-day operational activities at the Alor Regency DPRD Secretariat Office, but unlawfully, Drs. Ahmad Maro as the Budget User of the Alor Regency DPRD Secretariat Office used the disbursed Inventory Money in the amount where the Defendant Drs. Ahmad Maro directs Mufaza Husna, A.Md. to hand over Rp.500,000,000.00 (five hundred million rupiahs) to the Members of the Alor Regency DPRD Budget Board;
- 9) After receiving directions from Defendant Drs.Ahmad Maro, Mufaza Husna, A.Md. alone brought the Rp.500,000,000.00 (five hundred million rupiah) and handed it over to the Member of the Alor Regency DPRD who was at that time in the Commission A office of the Alor Regency DPRD Secretariat Office without a receipt;

10) The defendant Drs. Ahmad Maro as the Secretary of the Alor Regency DPRD who also serves as the Budget User then made a letter of accountability for the use of the Money Supply of the Alor Regency DPRD Secretariat Office in 2013 amounting to Rp500,000,000.00 (five hundred million rupiah) submitted to Members of the Budget Board on March 6, 2013 or at least it is used for other purposes outside the operational interests of the Alor Regency DPRD Secretariat Office by making an accountability letter that is not in accordance with the actual reality or by marking the letter of accountability, so the Defendant Drs. Ahmad Maro ordered Mufaza Husna, A.Md. as the Treasurer of Expenditures to make incorrect accountability letters or by marking up receipts for food and drink shopping meetings. However, until the end of the 2013 fiscal year, Mufaza Husna, A.Md. report to the Defendant Drs. Ahmad Maro that the accountability letter is not in accordance with the actual situation or made by mark-up that can be made by Mufaza Husna, A.Md. in the amount of approximately Rp.320,000,000.00 (three hundred twenty million rupiah) so that there are still approximately Rp.180,000,000.00 (one hundred eighty million rupiah);

c. Prosecutor's Indictment

1) First Indictment:

a) Primair:

Violating Article 2 Paragraph (1) Jo Article 18 of the Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption Acts as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to the Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption Crimes ;

b) Subsidair:

Violating Article 3 Jo Article 18 of Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption, as amended by Law of Republic of Indonesia Number 20 of 2001 concerning Amendment to Law of Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption;

2) Second Indictment:

Violating Article 8 Jo Article 18 of Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption, as amended by Law of Republic of Indonesia Number 20 of 2001 concerning Amendment to Indonesian Law Number 31 of 1999 concerning Eradication of Corruption;

3) Third Indictment:

Violating Article 9 Jo Article 18 of Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption, as amended by Law of Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption;

d. Judge's Consideration

Considering, that the main issue in this case is regarding the indictment of the Public Prosecutor who by the Defendant's Legal Counsel Drs. Ahmad Maro has submitted an objection/exception, as described below, namely:

- 1) Regarding the Defendant's Acts in connection with the request and disbursement of funds in the form of Inventory Money in the amount of Rp.500,000,000.00
- 2) Regarding the Application of Article 2 Jo Article 3 in relation to the element of enriching oneself or another person or a corporation as well as an element with the purpose of benefiting oneself, another person or a corporation
- 3) Regarding the Application of Articles 8 and 9 in the Indictment
- 4) Regarding the Application of Article 18 in the Indictment

Considering, that against the objection of the Defendant's Legal Counsel Drs. Ahmad Maro regarding the indictment which is not accurate, unclear and incomplete so that it must be declared null and void by law, the Panel of Judges believes that the indictment requirements have been regulated in Article 143 paragraph (2) of the Criminal Procedure Code, namely:

- 1) The indictment must contain formal requirements relating to:
 - a) The indictment was dated and signed by the Public Prosecutor;
 - b) The identity of the suspect which includes the full name, place of birth, age or date of birth, sex, nationality, place of residence, religion and occupation of the suspect;
- 2) The indictment must contain material requirements relating to:
 - a) A careful, clear and complete description of the criminal acts charged;
 - b) Stating the time and place the crime was committed;

Considering, that in accordance with the provisions of Article 143 paragraph (3) of the Criminal Procedure Code, the indictment that does not meet the material requirements as referred to in Article 143 paragraph (2) Letter b of the Criminal Procedure Code is null and void by law;

Considering that, the Law does not explain the meaning of the words carefully, clearly and completely as stipulated in Article 143 paragraph (2) Letter b of the Criminal Procedure Code. However, based on judicial and jurisprudential practice and expert opinion it can be concluded that the definitions are as follows:

- 1) Careful that is based on relevant legal provisions, without any deficiencies or errors that cause the indictment to be null and void or can be canceled or declared unacceptable;

2) Clear, which contains a clear and easy to understand description by compiling an editor who brings together the facts of the defendant's actions with the elements of the criminal act, so that the Defendant who hears or reads it will understand and get a picture of who committed the crime and what crime was committed, and when and where the crime was committed, what are the consequences and why did the defendant commit the crime. The description of the components is arranged systematically and chronologically in simple language;

3) Complete, which includes a round and complete description that is able to describe the elements of a criminal act that are indicted and the time and place where the crime was committed;

e. Judge's Decision

1) Granting the exception/objection of the Defendant's Legal Counsel Drs. Ahmad Maro;

2) Declare the Public Prosecutor's Indictment against the Defendant Drs. Ahmad Maro cannot be accepted;

3) Returning corruption case files on behalf of Defendant Drs. Ahmad Maro to the Public Prosecutor at the Alor District Attorney;

4) Ordering the Public Prosecutor to immediately issue the Defendant Drs. Ahmad Maro from custody;

5) Imposing court fees to the State;

2) Interim Decision Number 37/Pid.Sus-TPK/2018/PN Kpg

a. The Identity Of The Perpetrator

Full Name	: Drs. Ahmad Maro
Place of Birth	: Bota Alila, Alor Regency
Age / Date of Birth	: 56 Years / December 14, 1961
Male	: Gender

Nationality	: Indonesian
Residence	: BTN Bungawaru RT. 04 RW. 02 Kelurahan Kalabahi Timur, Teluk Mutiara District, Alor Regency
Religion	: Islam
Occupation	: Retired State Civil Apparatus (ASN)
Education	: S-1 (Social Welfare)

b. Case Chronology

1) Based on Alor Regent Decree Number: BKD.821.2 / 087/2012 dated 19 November 2012, the Defendant Drs. Ahmad Maro was appointed as Secretary of the Alor Regency DPRD at the Alor DPRD Secretariat from November 19, 2012 to August 29, 2014, and based on the provisions of Article 6 of Law Number 1 of 2004 concerning the State Treasury, Defendant Drs. Ahmad Maro is also a Budget User at the Alor Regency DPRD Secretariat where regulated "The Head of the Regional Apparatus Work Unit is the Budget User or Property User for the regional work unit he leads, authorized:

- a) Prepare budget implementation documents;
- b) Perform actions that result in expenditure on the burden of the budget;
- c) Conduct testing of bills and order payment;
- d) Carry out collection of non-tax revenue;
- e) Manage debts and receivables;
- f) Using regional property;
- g) Oversee the implementation of the budget;
- h) Prepare and submit financial statements;
- i) The regional work units they lead. "

2) Based on the provisions of Article 10 paragraph (3) of Law Number 17 of 2003 concerning State Finance, the Defendant Drs. Ahmad Maro as Head of the Regional Apparatus Work Unit as an official of the Regional Budget User has the following tasks:

- a) Prepare the budget of the regional work units they lead;
 - b) Prepare budget implementation documents;
 - c) Carry out the regional work unit budget he leads;
 - d) Carry out collection of non-tax revenue;
 - e) Manage regional debt receivable which is the responsibility of the regional work units they lead;
 - f) Manage the property/wealth of the region which is the responsibility of the regional work units they lead;
 - g) Prepare and submit financial reports on regional work units they lead.
- 3) Around February 2013, during the 2013 Budget Year RAPBD discussion session between the Alor Regency DPRD Budget Board and the Alor Regency Local Government Budget Team (TAPD), the budget discussion had not yet been completed. Then due to the protracted discussion of the budget for the 2013 Fiscal Year which had not yet been ratified, on the evening of February 26, 2013 at night the Defendant Drs. Ahmad Maro, a meeting was held between Defendant Drs. Ahmad Maro with the Regional Government Budget Team (TAPD) of Alor Regency, namely Plt. Alor Regency Regional Secretary on behalf of Drs. Oktovianus Lasiko, Head of the Regional Development Planning Board of Alor Regency on behalf of Drs. Marthen Luther Hitikana and Head of the Regional Financial and Asset Revenue Service on behalf of Drs. Urbanus Bella, who at the meeting was looking for a solution to launch a 2013 RAPBD discussion session and at that time Acting. Alor Regency Regional Secretary on behalf of Drs. Oktovianus Lasiko as Chairman of the Local Government Budget Team (TAPD) of Alor Regency ordered the Defendant Drs. Ahmad Maro to give Rp.500,000,000.00 (five hundred million rupiah) from the budget of the Alor

Regency DPRD Secretariat to Members of the Alor Regency DPRD Budget Board. The defendant Drs. Ahmad Maro then agreed to Drs. The Lasiko Oktovianus is to make the Alor Regency APBD 2013 approved by the Alor Regency DPRD Budget Agency where later the Alor Regency APBD can be used by the Alor Regency Regional Work Unit, including the SKPD budget of the Alor Regency DPRD Secretariat led by Defendant Drs. Ahmad Maro.

- 4) Defendant Drs. Ahmad Maro together with Jou Ali and Mufaza Husna, A.Md., in managing the Alor Regency DPRD Secretariat Money Flow in 2013 Fiscal Year Inventory is not in accordance with its designation which should be used as a Money Supply (UP) or operational of the Alor Regency DPRD Secretariat Office with:

- a) Article 21 of Law Number 1 Year 2004 concerning the State Treasury Jo. Article 1 number 53 Government Regulation Number 58 of 2005 concerning Regional Financial Management Jo. Article 136 Regulation of the Minister of Home Affairs Number 13 of 2006 concerning Guidelines for Regional Financial Management, which in essence explains "Inventory money is the amount of cash provided for the Work Unit in carrying out daily operational activities managed by the Spending Treasurer".

- b) Article 192 of Law Number 32 of 2004 concerning Regional Government as amended several times, the latest by Law Number 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government:

Paragraph (3) which states "expenditure cannot be charged to the regional budget if the expenditure is not available or not sufficiently available in the Regional Budget"

Paragraph (4) which states "Regional heads, deputy regional heads, DPRD leaders, and other regional officials are prohibited from spending at the expense of the regional budget for purposes other than those stipulated in the APBD".

- c) Law Number 1 of 2004 concerning State Treasury Article 18 paragraph (3) which states: "the official who signs and/or certifies documents relating to the evidence that is the basis for expenditure on the burden of the APBN/APBD is responsible for material truth and the consequences arising from the use of said evidence."

- d) Permendagri Number 13 of 2006, most recently amended by Permendagri Number 21 of 2011 concerning regional financial management guidelines:

Article 132 paragraph (1): "Every expenditure expenditure at the expense of the Regional Budget must be supported by complete and valid evidence";

Article 132 paragraph (2): "the evidence referred to in paragraph (1) must be approved by the authorized official and is responsible for the material truth arising from the use of said evidence"

Article 184 Paragraph (2): "Officials who sign and / or ratify documents relating to evidence which form the basis of receipt and / or expenditure on the implementation of APBD are responsible for the material truth and consequences arising from the use of said evidence.

Defendant Drs. Ahmad Maro as regulated and threatened with criminal in Article 2 Paragraph (1) Jo. Article 18 Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Jo. Article 55 Paragraph (1) of the 1st KUHP;

c. Prosecutor's Indictment

1) First Indictment:

a) Primair:

Violating Article 2 Paragraph (1) in conjunction with Article 18 of the Republic of Indonesia Law No. 31/1999 concerning Eradication of Corruption Crimes as amended by RI Law No. 20/2001 concerning Amendment to RI Law No. 31/1999 concerning Eradication of Criminal Acts Corruption;

b) Subsidair:

Violating Article 3 Jo Article 18 of Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption, as amended by Law of Republic of Indonesia Number 20 of 2001 concerning Amendment to Law of Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption;

2) Second Indictment:

Violating Article 8 Jo Article 18 of Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption, as amended by Law of Republic of Indonesia Number 20 of 2001 concerning Amendment to Indonesian Law Number 31 of 1999 concerning Eradication of Corruption;

3) Third Indictment:

Violating Article 9 Jo Article 18 of Republic of Indonesia Law No. 31/1999 concerning Eradication of Corruption, as amended by RI Law No. 20/2001 concerning Amendment to RI Law No. 31/1999 concerning Eradication of Corruption.

4) Fourth Indictment:

Violating Article 5 Paragraph (1) Jo Article 18 of RI Law Number. 31 of 1999 concerning Eradication of Corruption, as amended by Indonesian Law Number 20

of 2001 concerning Amendment to Indonesian Law Number 31 of 1999 concerning Eradication of Corruption;

d. Judge's Consideration

Considering, furthermore the Defendant's Legal Counsel Drs. Ahmad Maro and the Public Prosecutor, stated that each of them remained in the establishment of their argument and subsequently requested an Interlocutory Verdict;

Considering, that the main issue in this case is regarding the indictment of the Public Prosecutor who by the Defendant's Legal Counsel Drs. Ahmad Maro has submitted an objection/exception, as described below, namely:

- 1) Regarding the actions of the Defendant charged with Article 2 Jo. Article 3 in relation to the element of enriching oneself or another person or a corporation and elements with the aim of benefiting oneself, another person or a Jo corporation. Article 55 Paragraph 1 1 of the Criminal Code.
- 2) Regarding the application of Articles 8 and 9 and Article 5 Paragraph (1) in the Indictment.
- 3) Regarding the application of Article 18 in the Indictment.
- 4) Regarding the application of Article 55 Paragraph (1) of the 1 KUHP in connection with the determination of legal subjects responsible for disbursing and providing funds in the amount of Rp500,000,000.00.

Considering, that by taking into account the arguments of objections or exceptions submitted by the Defendant's Legal Counsel Drs. Ahmad Maro mentioned above, apparently in the case of objection or exception the Defendant's Legal Counsel Drs. Ahmad Maro has stated that the indictment was null and void by law;

Considering, that in relation to the objection/exception of the indictment being null and void by law, in the opinion of the Panel of Judges it is related to the making

of the indictment by the Public Prosecutor as regulated in Article 143 Paragraph (2) of the Criminal Procedure Code;

Considering, that in relation to making the indictment fully the authority of the Public Prosecutor as stipulated in Article 14 letter d of the Criminal Procedure Code, the Prosecutor as the Public Prosecutor has been confirmed as the party most authorized to prosecute such matters as regulated in the provisions of Article 1 point 7, Article 137 and Article 140 Paragraph (1) of the Criminal Procedure Code;

Considering, that in connection with this matter, the Prosecutor as the Public Prosecutor was given full authority to prepare the indictment, however, on how to prepare the indictment which was deemed appropriate and perfect, the provisions of the Law did not stipulate it clearly and in detail about the matter, the Criminal Procedure Code only determine the preparation of the indictment must meet the provisions of Article 143 Paragraph (2) with the risk that if the provisions are crossed then the indictment will be null and void by law (absolute nietig) as stipulated in Article 143 Paragraph (3);

Considering whereas Article 143 Paragraph (2) letter b expressly regulates the material requirements of the indictment which must accurately, clearly and completely describe the alleged criminal act by stating the time and place the crime was committed;

Considering, that the Panel of Judges in the a quo case after examining and examining the indictment of the Public Prosecutor No. Reg. Perk: PDS-03 / KLBHI / 07/2018 dated 13 September 2018, Defendant Drs. Ahmad Maro was charged with alternative charges of violating:

- 1) First Primair Article 2 Paragraph (1) Jo. Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001

- concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Crime Jo. Article 55 Paragraph (1) of the 1st KUHP;
- 2) Subsidair Article 3 Jo. Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Crime Jo. Article 55 Paragraph (1) of the 1st KUHP;
 - 3) Or Second Article 8 Jo. Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Crime Jo. Article 55 Paragraph (1) of the 1st KUHP;
 - 4) Or Third Article 9 Jo. Article 18 Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Jo. Article 55 Paragraph (1) of the 1st KUHP;
 - 5) Or the Fourth Article 5 Paragraph (1) letter a Jo. Article 18 Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Jo. Article 55 Paragraph (1) of the 1st KUHP;
- e. Judge's Decision
- 1) To grant the objection/exception of the Defendant's Legal Counsel Drs. Ahmad Maro;
 - 2) Declare the Public Prosecutor's Indictment No. Reg. Perk: PDS-03/KLBHI/07/2018 dated September 13, 2018, did not meet the material requirements as referred to in Article 143 Paragraph (2) letter b of Law Number 8 of 1981 concerning the Criminal Procedure Code;

- 3) Declare the indictment of the Public Prosecutor No. Reg. Perk: PDS-03/KLBHI/07/2018 dated 13 September 2018 null and void;
- 4) Ordered the investigation of corruption cases No. 37/Pid.Sus-TPK/2018/PN.Kpg on behalf of the Defendant Drs. Ahmad Maro in the Corruption Court at the Kupang District Court was stopped;
- 5) Imposing court fees to the state;

f. Author Analysis

Based on the chronology of the case above, in the interlocutory decision Number: 28/PID.SUS-TPK/2018/PN.Kpg, the judge handed down the verdict that the indictment of the public prosecutor's indictment was unacceptable in the interim decision No. 37/Pid.Sus-TPK/2018/PN.Kpg, Judge drops indictment of public prosecutor null and void. If seen from the chronology of the prosecutor's indictment, the public prosecutor actually did not have a very fundamental change in the indictment and still did not meet the careful, clear and complete elements (CJL) so that it should be in interim decision Number: 28/PID.SUS-TPK/2018/PN.Kpg the judge should have ruled null and void.

Based on the brief description above, the Indictment letter is a letter that contains the formulation of a criminal act charged to the Defendant which is concluded and withdrawn from the results of the investigation, and is the basis and basis for the judge in the examination before a court hearing. Referring to the definition of the indictment above, by M. Yahya Harahap, stated as follows: "Regarding the requirements of the indictment can be seen in the provisions of Article 143 of the Criminal Procedure Code. Noting Article 143 contains two conditions that must be met in preparing the indictment:

- 1) Must contain formal requirements

The formal requirements contain matters relating to:

- a) The indictment is dated and signed by the Public Prosecutor or Prosecutor;
- b) Full name, place of birth, age or date of birth, sex, nationality, place of residence, religion and occupation of the suspect;

2) Must contain Material Terms

Material requirements contain two elements which must not be neglected:

- a) A careful, clear and complete description of the criminal act charged;
- b) By stating the time and place the crime was committed (*tempus delicti* and *locus delicti*);

Both of these conditions must be met by the indictment. However, in reality between the two conditions, the Act itself distinguishes and the difference between these two conditions can be seen from the sound of Article 143 paragraph (3) which confirms: the indictment does not meet the provisions referred to in paragraph (2) letter b. null and void. Examining the sound of the affirmation of the provisions of Article 143 paragraph (3) the conclusion can be drawn: "The lack of formal requirements does not cause the indictment to be null and void. This means that deficiencies or errors regarding the contents of the formal requirements of the indictment are not automatically invalidated by law, the cancellation of the indictment which results from a lack of perfection of the formal requirements "Cancelable". While the lack of material requirements resulted in the "Cancel of the Indictment for the Sake of the Law".

Based on the descriptions above, one of the main problems in the criminal justice system, especially the corruption criminal court, is the matter of making decisions in criminal cases of corruption, because this problem is an output (put out) of the court as an independent institution and as a one of the criminal justice sub-

systems. The decision taken by a judge in a corruption case cannot be released from a court official called a judge. It is the judge who is authorized by law to decide a case that is brought before the court. In order to obtain an objective judge's decision that has a value of justice in the community, he is given a guarantee of the judge's freedom to judge and consider the interlocutory decision on a corruption case with the defendant Ahmad Maro, who prior to the first decision sentenced the judge unacceptable but in the second ruling the judge handed down the verdict null and void by law.

CONCLUSION

Judges in rendering decisions are still inconsistent because of Interim Decision Number 28/Pid.Sus-TPK/2018/PN.Kpg should have been null and void but the judge handed down the verdict unacceptable so that null and void considerations were made in the Interim Verdict Number 37/Pid.Sus-TPK/2018/PN.Kpg The Corruption Court at the Kupang District Court was impressed that there had been two decisions in the same subject matter.

SUGGESTION

There is a need for coordination and firmness among all the judges as outlined in the form of a collective agreement in the case of a decision so as not to give space to the prosecutor in the case that the court is made as a place for achievement.

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