

# The Implementation Of Judge Interpretation On Violation Of Elements Concerning The Obligation Of State Employees In The Corruption Of Criminal Acts (Case Study On The Decision Of Criminal Acts Of Corruption Number 132 / Pid.Sus / Tpk / 2017 / Pn.Jkt.Pst)

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## Abstract

In the current reform era, the realization of good governance must be supported, among others, by law enforcement against corruption. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes is the legal basis used in Indonesia. Several cases of judge's interpretation in a Corruption Case are needed to provide clarity regarding whether or not the elements of a crime have been fulfilled. This thesis discusses "Implementation of Judges' Interpretation of the Violation of Elements Contrary to the Obligations of Civil Services in Corruption Cases (Case Study of the Corruption Court Decision Number 132 / PID. SUS / TPK / 2017 / PN.JKT.PST.", With the problem and purpose of knowing the forms of legal interpretation in the Corruption Case and the application of the judge's interpretation to the case study. This research was obtained from primary, secondary and tertiary legal materials which were then analyzed in a descriptive normative manner Analytical interpretation methods and also the construction of law are not permitted in criminal law The Panel of Judges in this case adopted a systematic interpretation in their decision In this case Law Number 31 of 1999 concerns Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Corruption Crimes is linked to Act Number 5 of 2014 of the State Civil Apparatus (ASN) concerning Civil Servants.

## Keywords

Interpretation, State Civil Apparatus, Corruption

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## Preliminary

In the current reform era, the realization of good governance must be supported, among others, by law enforcement against corruption. This is in line with the objectives mandated by Law Number 28 of 1999 concerning State Administrators who are Clean and Free of Corruption, Collusion and Nepotism, hereinafter referred to as "Law No. 28/1999 ". Furthermore, several laws and regulations were formed in an effort to eradicate corruption, namely: Law Number 31 of 1999 concerning Eradication of Corruption Crimes amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication the Corruption Act, hereinafter referred to as the KPK Law. Furthermore, Law Number 30 of 2002 concerning the Corruption Eradication Commission, hereinafter referred to as the "KPK Law" and Law Number 46 of 2009 concerning Corruption Criminal Court, hereinafter referred to as the "Corruption Court Law". The court's decision in general is still far below the maximum limit of criminal threats stipulated in the law. Often judge in decisions related criminal prosecution of corruption cases men drop criminal sanctions far enough below the maximum threat of punishment stipulated in the Law on Corruption. Furthermore, the court in giving the decision to give criminal sanctions to corruptors, apparently gave different sentences between one offender and another. In other words, there is a disparity in punishment, namely the application of unequal crimes to the same crime. (Sigid Suseno and Nella Sumika Putri, 2013) Crime is also interpreted as a basic basis in falling into a crime against a person who has committed a crime on the basis of a person's responsibility for an act he has committed, a crime is also about being prohibited by applying an act that is about his own criminal act, which is based on the principle of legality (principle of legality) as a principle that determines that no acts can be prohibited and threatened with criminal sanctions if not determined in advance in legislation. Crime is a basic part of a mistake committed against someone in committing a crime. The principle of legality formulated in Latin *Nullum crimen sine lege* and *nulla poena sine lege* as contained in article 1 paragraph 1 of the Indonesian Criminal Law Book is recognized by many countries, both "liberal-capitalist" and "socialistic" . (Farid, 2010) One of the criminal offenses that received a very large amount of public attention was the Corruption Crime because the crime was carried out on a massive scale, and often detrimental to the state with a very large number. Corruption is a symptom of society that is found in almost every field of community life, both in the economic, legal, socio-cultural and political fields. The fact of history proves that almost every country is faced with the problem of corruption (Evi Hartanti, 2005) In efforts to prevent and eradicate corruption, the public has the right and responsibility in the sense that the community participates in efforts to prevent and eradicate corruption. (Nyoman Putra Putra Jaya, 2005) Corruption is a problem that is currently felt increasingly rapid development along with the more advanced development of a nation, the increasing need and encourage corruption. (Andi Hamzah, 2005) In criminal acts of corruption, the element of unlawful in corruption cases is important and determines the existence of a criminal act of corruption that must be accounted for, both office responsibilities and personal responsibility. The consequences of personal liability are related to criminal liability. Furthermore, in some cases the interpretation of judges in a Corruption Case is needed to provide clarity regarding whether or not the elements of a crime have been fulfilled. One of the cases that the author wants to examine is the Corruption Case committed by Hasan Novel (Head of the Planning and Organization Bureau of BAKAMLA RI) in accordance with the case study of Corruption Court Decision Number 132 / PID.SUS / TPK / 2017 / PN.JKT .PST The author wants to analyze the case of Corruption Crimes conducted by Novel Hasan (Head of Planning and Organization BAKAMLA RI) in accordance with the case study of the Corruption Court Decision Case Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST with an issue The resulting result is about the expansion of the judge's interpretation of the obligation as a state civil apparatus to Hasan's novel that was indicted by the Judge.

### Formulation of the problem

In line with this background, to find out the problems that will be discussed by the author, according to the authors the formulation of the issues that will be discussed in this study include:

1. How are the forms of legal interpretation related to the Corruption case??

2. How is the application of the judge's interpretation in the Corruption Crime case with a case study of the Corruption Court Decision Case Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST with the defendant Novel Hasan?

## Research Methods

### Approach Method

- a. The statute approach (statute approach) is carried out by examining all laws and regulations relating to the legal issues being addressed.
- b. The comparative approach (comparative approach), done by conducting a comparative study of law. (Peter Mahmud Marzuki, 2008)

### Research Type

Type of research, normative law in which the author conducts research on the validity of the law as a norm in society by examining study literature with materials related to the issues discussed by the author. Judging from the nature of this study is, "descriptive research is research that is intended to provide as much data as possible about humans, circumstances or other symptoms.

## Discussion

Interpretation is a process, method, and act of interpreting efforts to explain the meaning of something that is less clear (Big Indonesian Dictionary). In term (terminology) efforts to seek and determine the understanding of the arguments listed in the law in accordance with what is desired and intended by the makers of the law and are closely related to the matter of language, which is used to realize in the words some legal definitions, in discussing matters concerning the law, among those who are debating each other on a legal understanding, there must be an agreement on the terms of the words used. (Afifah, 2015; Saudi, M.H. 2018) In practice it must be recognized, often encountered a problem that is not regulated in the legislation (rechts vacuum) or if it is regulated but the provisions of the legislation do not regulate clearly and completely and have no relevance to the sense of justice and the development of community law. (Ahmad Syaukani and A. Hasan Thohari, 2004) Interpretation Methods namely Grammatical, Historical, Systematic (Logical), Sociological (Teleological) Interpretation, Authentic, Argumentum A Contario, Analogy, Extensive, Restrictive, Futuritis, and Comparative. Grammatical interpretation (grammatical interpretation) is also called interpretation according to or on the basis of everyday language used by the community concerned. The operation of this interpretation is in terms of finding the true meaning of a formulation of legal norms or parts of its elements, by looking for the actual meaning according to everyday language used by the community concerned. (Adami Chazawi, 2009) Historical interpretation is examining the history of the relevant law. This historical interpretation is of 2 types:

### **Interpretation according to the history of lawmaking (wetshistorische interpretatie**

This interpretation of wetshistorische is also called a narrow interpretation and only investigates "what is the purpose of the legislators in setting the laws or regulations or who is drafting the law, what are the basics, what is being debated in DPR sessions and so on so that the law can be officially established.

### **Interpretation according to the history of law (Rechtshistorische Interpretatie**

This historical interpretation is called a broad interpretation, because the wetshistorisch interpretation is included. Interpretation according to the history of this law investigates whether the origin of the regulation is from a legal system that was previously in force or from another legal system that is still valid or from another legal system that is currently still valid in another country. Systematic interpretation, is an interpretation that connects one article with another

article in a law concerned or in legislation other law, or read an explanation of a law, so that we understand what is meant. Sociological interpretation is interpretation that is adjusted to the state of society. Sociological interpretation is an interpretation that is adapted to social conditions in society so that the application of law can be in accordance with its purpose is legal certainty based on the principle of community justice. Authentic interpretation or official interpretation (authentieke interpretatie or officieele interpretatie) is official interpretation. In various legislation, the legislators have included official information regarding several terms or words in the relevant law. The interpretation made by the Lawmakers themselves can be followed in the explanation of the Law as an attachment and supplement to the State Gazette of the Act concerned. (Juanda, 2016) Interpretation of Argumentum A Contrario, which is a method of interpretation which is based on the resistance of the understanding between the questions that are regulated in a law article. So the operation of this interpretation is the opposite of the work of analytical interpretation and extensive interpretation Analogy interpretation is the interpretation of the law which considers a thing that has not been regulated in a law as a matter or is equated as a matter that has been regulated in the law, because this can indeed and needs to be done. Analogy can occur if the formulation of certain norms in the law is clear the contents and understanding of certain other concrete events that are clearly different and are not included in the content and what is regulated by the norms, but there are similarities in ratios with those events, therefore, by analogue the norm also enters and applies to the different events earlier. (Adami Chazawi, 2009) Extensive interpretation, which is an interpretation of law that is broad in nature, meaning a legal provision with the intention that with the expansion, matters that were not included in the legal provisions, while other legal provisions are not yet regulated, can be covered by the provisions of the expanded law. Restrictive interpretation is the interpretation of law which is basically the opposite or the opposite of extensive interpretation. If extensive interpretation is broadening the understanding of a legal provision, then the restrictive interpretation would be to limit or reduce the understanding of a legal provision with the intention that with such restrictions, the scope of the definition of the legal provisions will no longer be too broad so that the clarity, firmness and certainty of the law contained in the depth will be easier to achieve. (Encyclopedia, 2016) Futuristic interpretation by referring to the formulation in the draft of the proposed law or formulation (ius constituendum). Futuristic can also be interpreted by looking for solutions in legislation that do not yet have the force to apply, namely in the draft law. (Rose, nd) The comparative interpretation model is a method of comparing between various legal systems that tend to seek to find a common system. Contrary to systematic interpretation which sees it as a single unit. We need to pay attention to the opinions of Indonesian writers. Moeljatno rejected the use of the analogy but instead accepted an extensive interpretation. He also tried to draw a dividing line between the application of analogies and extensive interpretation. (Andi Hamzah, 2010) In criminal law interpretation is limited, only extensive interpretation can be done. Analytical interpretation methods and the construction of the law are not permitted in criminal law so it can be concluded that criminal law prohibits analogies. (Amdani, 2016) The reason why analogies are prohibited in criminal law is to guarantee legal certainty. It is felt as a violation of legal certainty if the analogy is used, as the basis for the formulation of Article 1 Paragraph (1) of the Criminal Code is the background of legal certainty in order to protect the people from the arbitrary efforts of the authorities through the judges. However, seen from the weaknesses of the prohibition on using analogies, the expansion of the law has benefits in the effort to achieve justice, which according to the community something that can't be properly punished through certain criminal rules, but by using an analogy for the perpetrators of the act can be convicted. Argumentum A Contrario is a way of interpreting or explaining the law carried out by the judge by basing on the contrary understanding of a concrete event that is faced with a concrete event that has been regulated in the law. The judge said "I apply this rule to events that are not regulated, but in reverse". So, in Argumentum A Contrario the emphasis is on the inequality of the event. Scolten as quoted by Liza Erwina SH, M.Hum in Legal Discovery by Judges at the Faculty of Law, Department of Criminal Law, University of North Sumatra said that there was no inherent difference between running the Act in analogy and applying the Law in Argumentum A Contrario only the result of Secondly, implementing the Law is different, the analogy brings positive results, while carrying out the Law in Argumentum A Contrario brings negative results. (WIDIYASARI, 2010) Interpretation Argumentum A Contrario as well as analogies whose application is prohibited in criminal law, reason, in this case Argumentum A Contrario a The constructed legal premises n way of abstracting the principle sua tu provisions for then the principle is applied in the opposite sense

ata u aim at a peristiwa concrete that have not yet been arranged. In criminal law, it is very strong to recognize the principle of legality " No act can be convicted except for the strength of the criminal rules in the existing legislation, before the act is carried out." , If this provision is abstraction then applied contrary, it means that there is an act without regulation which can be criminalized. So with this law construction of Argument A Contrario and Analogy are prohibited from applying the Criminal Law. Sudikno Mertokusumo explained the background to the need for a judge to make a legal discovery was because judges were not allowed to suspend or refuse to render a decision because the law was incomplete or unclear. Then, the findings will become law if followed by the next judge and become a jurisprudence. (Online, 2012) Corruption is a type of crime that is increasingly difficult to reach by criminal law because of pluralistic corruption which requires the ability to think of the examining and law enforcement officers accompanied by such neat patterns of conduct. Therefore, changes and legal developments are one way to anticipate such corruption. (Surachim and Suhandi Light, 2011) Of the many factors that cause corruption in Indonesia, the author will classify it into 4 (four) types of motives, such as the GONE theory put forward by Jack Bologne, saying there are 4 (four) root causes of corruption, namely Greed, Opportunity, Need , and Exposes .

### **Corruption by Greed Motif**

corruption due to greed and greed corruptors, he was never satisfied with the situation himself.

### **Corruption by Opportunity Motive**

corruption because the system provides holes or opportunities for corruption. An untidy control system, allowing someone to work carelessly, people easily manipulate numbers so that fraudulent and deviant behavior can easily occur, and at the same time the surveillance system is not strict, resulting in wide-open opportunities for corruption.

### **Corruption by Need**

The motive of corruption because of a mental attitude that is never enough, always laden 'll need that never ended.

### **Corruption by Exposes**

The motive for corruption due to the punishment imposed on perpetrators is low, so that candidates for corruption and the public who see the sanctions imposed on perpetrators of corruption are very low and do not commensurate with the corruption they have committed. (HASBI ASH SIDDIQI, 2019) The definition of a criminal act of corruption in legislation is the formulation of all acts that are prohibited in Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Eradication of Corruption. In Article 2 "Anyone who unlawfully commits acts of enriching himself or another person or a corporation that can be detrimental to the country's finances or the country's economy". And in Article 3 "Any person who has the purpose of benefiting himself or another person or a corporation, misusing the authority, opportunity or means available to him because of his position or position that could harm the financial status of the state or the country's economy".

## **Forms of Legal Interpretation Related to Corruption Cases**

### **Historical Interpretation**

The method of interpretation according to the history of making laws (wethshistorische interpretatie ) used in judicial practices in the Constitutional Court can be seen as contained in the Constitutional Court Decision Number 005 / PUU-IV / 2006 in the case of petition for review of Law Number 22 of 2004 concerning Judicial Commission and Article 34 paragraph (3) of Law Number 4 of 2004 concerning Judicial Power of the Panel of Judges having the following opinion : "In the context of authentic interpretation to provide the original interpretation of an article, it can be traced to the debate when the article was formulated. At the 41st Plenary Meeting of the Ad Hoc Committee I, the People's Consultative Assembly on June 8, 2000, a proposal was put forward

that: "The Judicial Commission functions to ... supervise the Supreme Court Justices" "... the judicial overseer who oversees all behavior judges in the judicial field conducted by judges at all levels ... "(Second Book, Volume 3C, Minutes of Meeting of the MPR PAH I, MPR-RI Secretariat, pp. 433 and p. 442). In the 36th Plenary Meeting of the Ad Hoc Committee of the MPR Workers' Body on September 26, 2001, an idea related to the scope of parties that needed to be monitored by the Judicial Commission was also proposed, namely: " ... The Judicial Commission is actually not only concerned with the Chief Justice but concerning all high court and district court judges ... propose that these judges be filtered by a permanent commission ... ". (Book 2, Volume 8A, Minutes of the PAH I Meeting, Secretariat General of the MPR-RI, 2001, p. 26). In the Academic Paper on the Draft Judicial Commission Law according to the Supreme Court version can also be found matters relating to the interpretation of the word "judge", such as: "... said the judge here must be interpreted as all judges, both judges first level, level appeal and appeal level "(Academic Text of the Supreme Court Judicial Commission Draft Law, pp. 26 and 58). "... we view ... the duties interpreted from the above functions ... the supervision and discipline of judges (including the Supreme Court justices)". (Academic Paper and Draft Law on Judicial Commission version of the Supreme Court, 2003, p. 45) The Application of Historical Interpretation according to the history of law ( Rechtshistorische Interpretatie ) in Case Decision number 67 / Pid.Sus-TPK / 2018 / PN.Jkt.Pst The defendant has been sued by the Public Prosecutor with alternative charges namely: First, 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) 1st KUHP Jo. Article 64 paragraph 1 KUHP: Or Second, as regulated and threatened with criminal offense in Article 3 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) 1st KUHP Article No. 64 paragraph (1) KUHP. That from the alternative indictment, in accordance with the facts obtained at the hearing, the Panel of Judges immediately chose the second alternative indictment, one of which is the interpretation of the elements as follows:

"Ad.1 Elements of Everyone

Considering whereas in the Corruption Act, everyone's understanding ... ""

"Ad.2 Element by benefiting oneself or self or corporation;

Considering, that the element with a beneficial purpose in article 3 of the Law on the Eradication of Corruption is a subjective element inherent in the creator's heart in carrying out acts of abuse of authority, opportunity, means or position, namely to benefit oneself or another person or a corporation. The element of purpose (doel) does not differ in meaning from the intent or error as intent (opzet als oogmerk) or spatiality in the narrow sense; That the element of benefit for oneself or another person or a corporation referred to in article 3 of the Law on the Eradication of Corruption, can be interpreted that there are benefits obtained by perpetrators of corruption or other people or a corporation committed by abusing its authority, and profits, which can be obtained in the form of money, gift giving, facilities and other pleasures; Based on the Supreme Court Jurisprudence of the Republic of Indonesia dated June 29, 1989 Number: 813 K / PID / 1987, which is intended to benefit oneself or another person or an entity, is sufficiently judged from the reality that occurs or is related to the defendant's behavior in accordance with the authority he has due to his position or position ; Considering , that the word "or" after the sentence with the objective in the second element above contains alternative meanings, the meaning of the beneficiary can be yourself, others, or corporations, who have the same capacity in the fulfillment of this second element, and with fulfillment wrong one element means fulfilling that element ;

### **Sociological Interpretation (Teleological)**

Examples of Sological (Teleological) Interpretations, Based on the Constitutional Court Decision Number 012-016-019 / PUU-IV / 2006.

- Article 11 letter b of the KPK Law which reads, "In carrying out the tasks referred to in Article 6 letter c, the Corruption Eradication Commission has the authority to conduct an investigation, investigation and prosecution of criminal acts of corruption which: a. ....; b. get disturbing attention from the public; c. ... ", by Petitioner II, it was deemed to have caused

uncertainty and injustice because there was no definite measure of the phrase "which disturbs the public" in Article 11 letter b of the KPK Law making it vulnerable to being misused.

With regard to the argument of Petitioner II, the Court will give the following considerations:

- that legal norms were formulated in writing in the form of the formulation of the article or clause of a statute is a proposition or statement essentially consisting of a series of concept or understanding. Therefore, a legal statement can only be understood correctly if there is a correct understanding of the concepts or understandings that form the statement in advance. The problem is that often a concept or understanding that is in the realm of the will (wollen, sollen) when verbalized into the formulation of words does not produce a definition that is able to represent the entire desired concept so that the statement or proposition produced is not easy to understand. Of course it cannot be immediately drawn to the conclusion that if this is the case then the understanding or concept does not exist or is better eliminated on the grounds that it creates legal uncertainty. In the world of law, such a situation is not only not new but it is quite common. That's why knowledge about interpreting the law develops. Thus, in relation to the a quo petition, the absence - or rather, not easy - of determining the size of a thing, or event, or act, or state of "disturbing the community" cannot be interpreted that things, events, actions, or a situation which is troubling to society does not exist or is better removed, let alone declare it to be something unconstitutional. Because, if this line of reasoning is followed, then the terms "public interest", "public order", "national interest", and many more, which cannot be given a definite measure legally, must also be considered absent or better negated and declared unconstitutional, because all of these terms also contain potential or vulnerability to be misused resulting in uncertainty and injustice. The court does not agree with this line of thought. Because, however difficult it is to find a legal measure or definition of something "that disturbs the community" does not mean that the facts about anxiety do not exist;

- that the Court did not intend to deny that the inconvenience in determining the measurement of things, events, actions, or "disturbing people" conditions has the potential to be misused. The purpose of the Court is, if only with such an argument is not enough to state that the provisions of Article 11 letter b of the KPK Law contradicts the 1945 Constitution. Because, if read in full Article 11 of the KPK Law reads, "In carrying out the tasks referred to in Article 6 letter c The Corruption Eradication Commission has the authority to investigate, investigate and prosecute corruption acts that:

- a) involving law enforcement officials, state administrators, and other people who are related to corrupt acts committed by law enforcement officials or state administrators;
- b) getting disturbing attention from the community; and / or
- c) concerning state losses of at least Rp. 1,000,000,000 (one billion rupiah) ",

then it is very clear that the existence of the word "and / or" after the sentence "getting disturbing attention from the community" must be interpreted that the conditions that cannot be eliminated so that the KPK has the authority to investigate, investigate, and prosecute a criminal act of corruption is in Article 11 letter a, which is cumulative with the letters b or c or both (b and c). In other words, the conditions in letter a are absolute, while the conditions in letter b and in letter c may be fulfilled one or both of them. Meanwhile, if only one of the letters b or c, or letter b is fulfilled as well as letter c, but the conditions in letter a do not exist, the KPK does not have the authority to conduct an investigation, especially an investigation and prosecution. Thus, if someone who has been investigated, investigated, or even prosecuted by the KPK even though the conditions fulfilled are only the conditions in letter b or c (or both) but the conditions in letter a are not met, then of course the person concerned can submit an objection in the trial (because the KPK is not authorized to issue SP3) so that the judge states that the KPK is not authorized to conduct an investigation, investigation, or prosecution of the relevant crime. The same objection can be raised by someone if, for example, the KPK feels authorized because according to him the requirements in letter a and letter b are fulfilled while according to the person concerned the conditions in letter b are actually not fulfilled, for example by submitting an expert witness to prove it. In the event that such a situation occurs, then it is entirely the competence of judges or courts in the general court environment to decide. Therefore, the argument of Petitioner II which states that Article 11 letter b has caused legal uncertainty, is not entirely correct. Therefore, legal certainty is still guaranteed even though the certainty is only obtained after the decision of the

judge who will provide an assessment of whether the conditions that "disturb the community" are met or not;

With all the above considerations, the Court is of the opinion that Petitioner II's argument, insofar as Article 11 letter b of the KPK Law is not sufficiently grounded;

### **Application of Interpretation of Judges in Corruption Cases Case Study of the Corruption Court Decision Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST**

In the Corruption Court Decision Case Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST regarding Corruption, namely Defendant NOVEL HASAN committed corruption together and violated the provisions in Article 12 letter b of Law Number 31 Year 1999 concerning Eradication of Corruption Crime as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption in conjunction with Article 55 paragraph (1) of the 1st Criminal Code and Law Number 8 Year 1981 concerning the Criminal Procedure Code and sentenced to 4 (four) years in prison and criminal penalties in the amount of Rp. 200,000,000.00 (two hundred million rupiahs) provided that if the unpaid penalty is replaced by serving 2 (two) imprisonment ) month, the length of time the Defendant is in detention is deducted entirely by the sentence imposed. Recalling the Position of the Defendant, namely as a Civil Servant, Head of the Planning and Organization Bureau at the Maritime Security Agency of the Republic of Indonesia (BAKAMLA RI), that elements of the Civil Servants or State Administrators in the provisions of Article 12 letter b of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption, demonstrates the quality of legal subjects for criminal offenses, which must be elements of the Public Servant or State Official. The word "or" in the element is alternative (choice), meaning that if one has been proven then the element has been fulfilled. In the provision of Article 1 number 2 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption Crimes referred to as "Civil Servants" , includes:

1. Civil Servants as referred to in the Law on Personnel
2. Civil Servants as referred to in the Indonesian Criminal Code
3. People who receive salaries or wages from State or regional finances
4. People who receive salary or wages from a corporation that receives assistance from the State or regional finances
5. People who receive salaries or wages from other corporations that use capital or facilities from the State or society.

By observing the understanding of the elements of the civil service, legal fulfillment is obtained, namely:

1. That the Defendant NOVEL HASAN was a Civil Servant (PNS) in the position of Civil Chief of the Planning and Organization Bureau at the Republic of Indonesia's Maritime Security Agency (BAKAMLA RI).
2. Whereas the role of ASN employees as planning, implementing and supervising public government and national development through the implementation of professional policies and public services free from political intervention, and free from corruption, collusion and nepotism practices, vide article 12 of the ASN Law (Civil Apparatus Country Number 5 of 2014)
3. That the Direct superior of the Defendant was Witness Eko Susilo Hadi as Acting Principal Secretary (Sestama) BAKAMLA RI.

Furthermore, the element of receiving the intended gift has also been fulfilled in the actions of the defendant: The element even though it is known or reasonably suspected that the gift was given as a result or due to having done or not doing something in his office that is contrary to his obligations. Noting the element "contrary to his obligations" in the defendant also obtained elemental analysis, namely:

1. That the defendant Novel Hasan was the Head of the Planning and Organizational Bureau at the Indonesian Maritime Security Agency.



2. With this position, the defendant has the right to compile and submit a 2016 Revised State Expenditure Budget (APBN-P).
3. As Head of the Planning Bureau, the defendant carried out his duties and functions to coordinate the budget plan in Bakamla.

On that basis, it can be said that the defendant did not do anything contrary to his obligations or did something contrary to his obligations as the Head of the Planning and Organization Bureau in Bakamla, which means that the element contradicts the obligations not fulfilled for the defendant as the Head of the Planning and Organization Bureau in Bakamla. However, due to non-fulfillment of its obligations as an element of conflict with Karo BAKAMLA, the judges did Fulfillment elements by way of expanding and linking the notion of "contrary to his duty" against the defendant as servants or State Officers. In the Law on State Civil Apparatus Article 3 letter b becomes the relationship used by the Panel of Judges, the contents of which are in a position contrary to the obligations of the State Civil Apparatus as a profession based on the Code of Ethics and the Code of Conduct aimed at maintaining the dignity and honor of the ASN (State Civil Apparatus ) and Article 12 stipulates that ASN employees play a role through the implementation of policies and professional public services free from political intervention, and free from corrupt practices, collusion and nepotism, and even every civil servant in his oath has also promised not to accept anything in his position / position he will carry. According to the Author's Analysis, in the contents of the Corruption Court Decision Case Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST as well as with the legal facts contained therein, the Panel of Judges in this case as well as in their Decision applied a systematic interpretation namely a way to seek understanding of a formulation of legal norms or parts / elements of legal norms by connecting one article to another article in a relevant law or other legal legislation, so that it becomes clear what is meant by the law these laws. In this case the Corruption Criminal Act is related to the article of the Law on the State Civil Apparatus (ASN) concerning Civil Servants, their obligations and what is contrary to their obligations. The elements fulfilled from the relationship of the second article of the Law become the material for consideration and interpretation in this corruption case. So the actions of the Defendant in this case who have received a sum of SGD104,500 have been contrary to the obligations of the Defendant as a Civil Servant who in the implementation of professional public policies and services are free from political interference, and free from corrupt practices, collusion and nepotism while also having to comply with the code of ethics and behavior of an ASN civil servant who must uphold professional ethical standards, namely carrying out his duties professionally and impartially

## Conclusions and Recommendations

### Conclusion

1. Interpretation or interpretation is one method of legal discovery that gives unclear explanations regarding the text of the law so that the scope of the method can be determined in connection with certain events. In carrying out the legal interpretation of a statutory regulation that is considered incomplete or unclear, a legal expert cannot act arbitrarily. The form of legal interpretation is generally used in all Courts including in the Corruption Criminal Court. There are several methods of Interpretation, namely Grammatical, Historical, Systematic (Logical), Sociological (Teleological), Authentic, Argumentum A Contario, Analogy, Extensive, Restrictive, Futuritis, and Comparative Interpretation. But the interpretation in the Corruption Act against several decisions encountered by the author, the judge uses Historical Interpretation according to the history of making laws (wetshistorische interpretatie), Application of Historical Interpretation according to the history of law (Rechtshistorische Interpretatie), Teleological Interpretation (sociological) and Systematic Interpretation.
2. The legal facts contained in the Corruption Court Decision Number 132 / PID.SUS / TPK / 2017 / PN.JKT.PST , the Panel of Judges in determining the elements in article 12 b which read "civil servants or state administrators who receive gifts even though it is known or proper to suspect that the gift was caused by having done something in his office that was contrary to his obligations" The Panel of Judges applied Systematic Interpretation by combining article 12 b of Law Number 20 Year 2001 Concerning Eradication of Corruption with Article 3 letter b of the Law Number 5 Year 2014 of the

State Civil Apparatus (ASN) concerning Civil Servants so that it becomes clear what is meant by the law. The article is connected to the article of Law Number 5 Year 2014 of the State Civil Apparatus (ASN) concerning Civil Servants, their obligations as well as what is contrary to their obligations. The elements that are fulfilled from the relationship of the second article of the Law become a material for consideration and interpretation in this corruption case.

## Suggestion

Interpretation can function as a method in the sense of adding, subtracting, or improving the meaning contained in a text of the Act. Interpretation of important laws of life or activities related to law. But it is necessary to have a clear picture of the interpretation method used by the judge in each of his decisions, so as to facilitate the parties or the public to understand each decision by the existence of existing legal interpretations in order to study and deepen the knowledge of the existing legal interpretations.

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