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Science, Engineering and Social Science Series  
ISSN/e-ISSN: 2541 – 0369/2613 – 988X  
DOI: -  
Vol. 5, No. 2, 2021, Printed in the Indonesia

# Judgment Considerations Analysis On Case No. 2531K / PID SUS / 2018

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Corruption in Indonesia is widespread in society and continues to increase from year to year. Both in terms of the number of cases and the number that have occurred and state financial losses as well as in terms of more systematic crimes committed. The abuse of authority in the Corruption Eradication Law creates a grey area where official policies can have a criminal law dimension, with abuse of authority which is a form of maladministration and becomes a personal responsibility. Abuse of authority requires that the perpetrator must be civil servants / state administrators. Research methods are used in this thesis writing, the type of research in this thesis is Normative research. Normative Law Research is to examine the principles of criminal law through literature study and what is used are materials related to the title of the thesis such as books, laws and regulations that will be reviewed and studied. because it is only the Civil Servant or State Officials who are authorized to abuse their authority in relation to their Position or Position in government. according to the author, in this matter or at least the panel of judges in imposing a criminal sentence on the defendant should have declared that the judge was proven guilty of abuse of power as indicted in the subsider indictment. Defendant as a Civil Servant Position as Proxy of Budget User and Commitment Making Officer is the use of authority for procurement of goods and services based on authority, procedure, substance. Of the 10 (ten) Court Decisions, the Application of Criminal Imposition against the defendant / perpetrator a civil servant who has a position or position in the procurement of goods and services as a budget User or Budget User Proxy (KPA), the panel of judges imposes a criminal based on legal considerations, namely 6 (six) proven guilty of committing a criminal act of corruption violating Article 3 (elements of abuse of power) of Law Number 31 of 1999 and which is combined with Law Number 20 of 2001 concerning amendments to the Law concerning Eradication of Corruption as in the indictment of the Criminal Code of Prison 1 (one) year to 3 (three) years and a fine of Rp. 50,000,000 (fifty million rupiah). Meanwhile, 4 (four) were found guilty of committing a criminal act of corruption violating article 2 (against the law) of Law Number 31 of 1999 which was combined with Law Number 20 of 2001 concerning amendments to the Law on Eradicating Corruption as indicted in the indictment. Primary Criminal imprisonment of 4 (four) years to 5 (five) years and a fine of IDR 200,000,000 (two hundred million rupiah). So, if it is seen that the imposition of criminal article 3 (three) is relatively lighter so that it does not provide a deterrent effect, it should be heavier, at least 5 (five) years because the perpetrator is an ASN who has a position or position. Article 3 should be revised imprisonment to be a minimum of 5 (five) years.

**Keywords:** Consideration judges, Criminal sentence, The defendant

## 1. INTRODUCTION

Government procurement of goods / services has the objective of, among other things, obtaining goods / services at a price that can be accounted for, with the appropriate quantity and quality and timely implementation. The causes of irregularities in the procurement of goods and services in Indonesia include: the dominating bureaucratic leadership structure, the lack of strong government goods / services procurement on

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regulations, the ineffectiveness of the government goods / services procurement system accordingly, low employee salaries / incentives, the mental and moral of the employees. low level, lack of transparency, costly political campaigns, political dynasties, large projects, crony interests, weak order and law enforcement, weak legal profession. The consequences of irregularities include not creating good governance, low economic growth, unequal development and high poverty rates. Efforts to improve the process of government

procurement of goods / services with the existence of legal arrangements regarding the procurement of government goods / services and the process of procuring goods and services through e-procurement. Procurement (procurement) includes the activities of procuring goods and services through one of three methods, namely make yourself (self-management), purchase (buy), lease (rent). Purchasing is an activity of procuring the needs of goods / services only through purchases. According to Presidential Regulation Number 54 of 2010, Chapter I Article 1 paragraph (1) Procurement of goods / services is an activity to obtain goods / services by other Ministries / Institutions / Regional Work Units / Institutions whose process starts from planning needs to carrying out all activities for obtain goods / services [1, 2, 3]. The procurement of goods / services can be done through self-management and the selection of goods / services providers. Government procurement of goods / services such as Goods, Construction work, Consulting Services, and Other services. The term procurement of goods / services in a broad sense includes an explanation of the stages of preparation, determination, and implementation or administration of the auction of the procurement of goods / services [4, 5, 6]. The procurement of goods / services is also not only an activity for selecting providers of goods / services but also includes the entire process starting from planning, preparation, licensing, auction, determining the winner of the auction, to the implementation stage and administrative processes in the procurement of goods / services. Here, the practices that trigger corruption in the procurement of goods and services. The procurement of goods and services or good infrastructure development is needed to support the running of the nation's economy. Various findings and reports from the auditing apparatus show many irregularities in the procurement of these goods and services. This deviation is indicated by the number of corruption cases handled by law enforcement agencies [7, 8, 9]. There are several practices that have triggered criminal acts of corruption in the procurement of goods and services including bribery, splitting or bundling of packages, mark-up of prices, reducing the quality and quantity of goods and services, direct appointment, and collusion between providers and officials in the procurement of goods and services. There are 3 (three) elements that can be categorized as a criminal act of corruption, such as abuse their authority, provide good benefits to yourself, alone and others, and causing losses to state finances.

If the process is ongoing, even though the contract has not yet ended, there are indications or "strong allegations" that irregularities can or can be categorized as a violation of the Corruption Law [10, 11, 12]. A criminal act, namely an act which is stated by the criminal law as a prohibited act [13]. Based on several study of scholars, it can be summarized that a criminal act or a criminal act is an act which is prohibited and punishable by anyone who

commits it. According to the General Indonesian Dictionary: "Corruption is a bad act such as embezzlement of money, receiving bribes and so on". Corruption and corruptors come from the Latin word *corruptus*, which changes from a just, right and honest condition to the opposite. From a legal point of view, the criminal act of corruption in general includes the following elements such as: acts against the law, abuse of authority, opportunity or means, enriching oneself, other people, or corporations, harming state finances or the country's economy [14, 15]. The several other types of corruption, including: giving or receiving gifts or promises (bribery), embezzlement in office, extortion in office, participating in procurement (for civil servants / state administrators), receiving gratuities (for civil servants / administrator country). Corruption is a disease that has plagued the Indonesian state. Like a disease, corruption must be cured so that it does not spread to other parts of the body [16, 17]. For a part of the body that has rotted and cannot be saved anymore, that part of the body must be amputated so that the virus does not spread to other parts that can endanger the life of the sufferer. Likewise with the criminal act of corruption. One of the things in charge of carrying out government functions is that the provisions for governance are regulated in Law Number 30 of 2014 concerning Government Administration. The Government Administration Law guarantees basic rights and provides protection to citizens and guarantees the implementation of state duties as demanded by a state law in accordance with Article 27 paragraph (1), Article 28 D paragraph (3), Article 28 F, and Article 28 I paragraph (2) of the 1945 Constitution of the Republic of Indonesia [18, 19, 20]. Based on provisions study, the citizens are not objecting, but subjects who are actively involved in government administration. Government Administration of Arrangements in Law Number 30 of 2014 guarantee that decisions and / or actions of government agencies and / or government officials towards community members cannot be carried out arbitrarily. Thus, the existence of Law Number 30 of 2014, citizens will not easily become objects of state power. In addition, this Law is a transformation of the General Principles of Good Governance (AUPB) which have been practiced for decades in the administration of government, and concretized into binding legal norms. The administration of government must be based on the principle of legality, the principle of protection of human rights and the AUPB, especially in this case the principle of not abusing authority. The principle of not abusing one's own authority is regulated in Law Number 30 of 2014, namely Article 10 paragraph (1) letter e and its explanation [21, 22, 23]. This principle requires every government agency and / or official not to use their authority for personal interests or other interests and not in accordance with the purpose of granting such authority, not to exceed, not to abuse, and / or not to confuse authority.

## 2. METHODOLOGY

In order to achieve the result, we Normative and Empirical methods in this study. The normative Law Research is to examine the principles of criminal law through literature study and what is used is materials related to the title of the study such as books, laws and regulations that will be reviewed and studied, Law No.1 Year 1946 Concerning the Criminal Code (KUHP), Law No. 8 of 1981 concerning Criminal Procedure Law (KUHP), Law No. 31 of 1999 concerning the Eradication of Corruption Crime, which is united with Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Corruption Crime, Law No. 30 of 2014 concerning Government Administration, Case Study of Corruption Court Decision Number 2531 K / Pid.Sus / 2018 [21, 22, 23].

Empirical Legal Research, which consists of research on legal identification and research on legal effectiveness. Normative-Empirical Research, is carried out by examining various legal literature materials (commonly called secondary). Approaches in normative (dogmatic) legal research include: statutory, conceptual, historical and comparative approaches. Through a statutory approach and a conceptual approach, an assessment of all applicable legal provisions is carried out for reflection and theoretical argumentation based on basic legal concepts [24, 25, 26]. In finding and collecting the necessary data, it is focused on the main problems that exist, so that in this study there are no irregularities and confusion in the discussion. The types of data used in this study are primary data and secondary data.

## 3. RESULT AND DISCUSSION

### A. Elements of Abuse of Authority in the legal aspect of Corruption in the procurement of goods and services.

The abuse of authority is an essential element in the Corruption Crime. This is evident from the regulations of the Military Ruler from 1957 to the present (2001) which still include the element of "Abuse of Authority" as the core part of the offense. Here, the element of Authority Abuse as "Bestanddeel delict" (the core part of offense), is always present in the formulation of corruption offenses. The Military Authority Regulation Number PRT / PM / 06/1957 formulates the element of "Abuse of Authority" by using the phrase "taking advantage of the opportunity or authority or power". The formulation of Corruption according to this Regulation as follows:

- a) Any act committed by anyone, either for his or her own interests, or for the benefit of another person, or for the benefit of an entity that directly or indirectly causes losses to the finances or the economy of the State.
- b) Every act committed by an official who receives a salary or wage from an agency receiving assistance from state or regional finances, which by using the

opportunity or authority or power given to him by the official directly or indirectly brings profit or material to him.

Furthermore, the Central War Rulers Regulation Number *Prt / Peperpu / 013/1958* formulated the element of "Abuse of Authority" by using the phrase "Abusing Position or Position". Article 1 of this Regulation, acts of corruption can be divided into two, namely: (1) Criminal corruption, and (2) other acts of corruption, criminal acts of corruption include:

- a) The act of a person who deliberately or because of committing a crime or offense enriches himself or another person or an entity directly or indirectly harms the finances or economy of the State or region or harms the finances of an entity that receives assistance from state or regional finances or other legal entities. using capital or from concessions from the community.
- b) An act that is intentionally or because of committing a crime or violation to enrich oneself or another person or a body which is committed by abusing one's position or position.
- c) The crimes listed in article 41 to article 50 of this Central Warlord Regulation and in articles 209, 210, 418, and 420 of the Criminal Code. Other acts of corruption, according to (Article 3) include:
  - i. An act of a person who with or because of committing an illegal act enriches himself or another person or an entity which directly or indirectly harms the State or region's finances or causes financial loss to an agency receiving assistance from State or regional finances, or other agency that uses capital and capital. concessions from society.
  - ii. An act of someone who with or because of committing an illegal act enriches himself or a person or a body and is committed by abusing his position or position.

The starting from the formulation of article 3 of the Corruption Eradication Law, the core part of the offense (bestanddeel delict) as follows:

- a. Benefit yourself or other people or a corporation; With the aim of benefiting yourself or other people or a corporation.
- b. Misusing the authority, opportunity, or means available to him because of his position or position;
- c. Harm to State Finances or the country's economy. What is meant by State finance or economy According to the legislators in their explanation it determines that State finances are all State assets in any form, separated or not separated, including all parts of State assets and all rights and obligations arising from:

- i. Being in control, management and accountability of State officials, both at the central and regional levels; and
- ii. Being in the management and accountability of State-Owned Enterprises / Regional Owned Enterprises, foundations, legal entities, and companies that include third party capital based on agreements with the State.

#### B. Cassation Decision Number 2531 K / Pid.Sus / 2018

Read the Deed of Application for Cassation Number 04 / Akta. Pid. Sus / 2018 / PN Bdg made by the Clerk of the Corruption Court at the Bandung District Court, which states that on March 6 2018, the Public Prosecutor at the Bandung City District Attorney filed an appeal against the decision of the Corruption Court at the Bandung High Court. Here, the Memorandum of Cassation on March 14, 2018 from the Public Prosecutor at the Bandung City District Attorney as an appeal applicant, who was accepted at the Corruption Court Registrar at the Bandung District Court on March 14 2018;

#### C. Analysis of the Judge's Decision

That a person who has been indicted in a case is not necessarily guilty, on the other hand a person who has never been indicted in a case is not necessarily innocent. Thus, the treatment of a person who is suspected / accused in a case, if it is based on the sole purpose of finding fault with the person concerned, is actually torture, but a wise person is a person who treats another human being the same as himself. Even though "no criminal responsibility without error" has been accepted as a legal principle, including in judicial practice, its implementation is still far from expectations. Either because of limited understanding, so that practitioners, especially judges, do not want to be too "bothered" about this issue in carrying out their noble duties which are called "judging" or because of the implications of the problem, which consider that by fulfilling the elements of a criminal act, the work is deemed to have enough, and he considered that principle. In short, the application of law has not yet occurred in most criminal cases, but is merely a form of law enforcement. The dedication of judges to law is deemed to have completed the court's duties, so that the principles of law, including the principle of "no criminal responsibility without error" are only important to become demands in the legislative policy, but are not further applied in concrete events, both by law enforcers (executive policy) and by judges (judicative policy). In fact, applying the law to concrete events, it is not enough to "match" the incident with the law, especially in the field of criminal law, using the elements of a criminal act that exist in law to assess a behavior, without adapting it to the law. the mystical atmosphere of the community

when the act occurs, will only cause the law to be synonymous with law. In essence, apart from the law, the sense of community justice itself is an important principle that must also be considered. That the Defendant has been blamed for committing the Corruption Crime Based on the Indictment of the General Prosecutor as follows PRIMAIR, in Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Eradication of Corruption Crimes.

- a) "Every person who illegally commits an act of enrichment of himself or another person or a corporation that can harm the state finances or the economy of the State, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years.) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion Rupiah). "

While the SUBSIDAY, in Article 3 in conjunction with Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Eradication of Corruption Crimes.

- b) "Any person who with the aim of benefiting himself or another person or a corporation, misuses his / her authority, opportunity or means because of his position or position which can harm the state finances or the economy of the State, shall be punished with life imprisonment or imprisonment of at least 1. (one) year and a maximum of 20 (twenty) years and a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion Rupiah). "

Furthermore, in the letter of prosecution, the General Prosecutor only discusses and proves that the primary indictment has committed an unlawful act, a criminal act of corruption based on the provisions of Article 2 Paragraph (1) of Law Number 31 Year 1999 concerning Eradication of Corruption Crimes as amended by Law No. 20 of 2001 concerning the Eradication of Corruption, which has the following elements:

#### a. Against the law

Includes acts against the law in a formal sense or in a material sense, that is, even though the act is not regulated in statutory regulations, if the act is considered despicable because it is not in accordance with the sense of justice or norms. -Norma of social life in society, then the act can be punished. In this provision, the word "can" before the phrase "detrimental to the State's finances or economy"

indicates that a criminal act of corruption is a formal offense, that is, the existence of a criminal act of corruption is sufficient by fulfilling the elements of the act that have been formulated not by the occurrence.

*b. Enrich yourself or another person or a corporation*

In the Law on Corruption Eradication, there is no information or explanation regarding the meaning of "enriching oneself or another person or a corporation". To examine it from the standpoint of the language "enrich ..." comes from the syllable "rich". "Rich" means having a lot of wealth or a lot of possessions. "To enrich" means to be richer.

*c. Can be detrimental to the State's finances or the country's economy*

In the elucidation of article 2 paragraph (1) of the Corruption Eradication Law, it is stated that the word "can" before the phrase "detrimental to the State's finances or the State's economy" shows that the criminal act of corruption is a formal offense, namely the existence of a criminal act of corruption which is sufficient to fulfill the elements of the act, which has been formulated not with the emergence of consequences. The focus of a formal offense is an act, not a result like a material offense. In formal offenses, there is no need to look for a causal relationship between the result and the action, the important thing is that the act is against the law or not. Thus, the observing the description above, what is meant by state financial losses is a reduction in State finances and a certain amount as a result of acts against the law. Regarding the element of "loss to State finance" or loss to the State's economy "it does not always have to exist; this is because the use of the word" or "in article 2 of the Corruption Eradication Law shows an alternative character. This means that the elements of "State finance" or "State Economy" cancel each other out.

The indictment by the public prosecutor accuses the defendant of violating Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Eradication of Corruption in conjunction with Article 55 Paragraph (1) 2nd KUHP, in conjunction with Presidential Regulation Number 70 of 2012 concerning Second Amendment to Presidential Regulation of the Republic of Indonesia Number 54 of 2010 concerning Government Procurement of Goods / Services; That the Defendant Dr. H. ASEP HILMAN, M.Pd, has been blamed for the Corruption Crime. Whereas then in the legal consideration of the panel of judges. Here, the Defendant was legally and convincingly proven guilty of committing the crime of "collective corruption". Imposing a punishment to the Defendant is therefore subject to imprisonment of 5 (five) years and a fine of Rp.200,000,000.00 (two hundred million rupiah),

provided that if the fine is not paid, then it is replaced by imprisonment of 6 (six) months, Ordered the Defendant to be detained, because it was proven that he had violated Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20 of 2001 concerning Eradication of Corruption, according to the author. still inaccurate with regard to the parameters of these unlawful acts, then again, the author emphasizes that violating the Presidential Decree, the Presidential Decree, has transferred the budget from "printed expenditure" to "equipment expenditure" besides that as the Budget User Proxy (KPA) and the Making Official. The Commitment (PPK) does not have a Self-Estimated Price (HPS) as an implementation guide auction system that should have been prepared and compiled by the Procurement Committee so as to violate the provisions of Article 13 Paragraph (1) and Paragraph (2) of Presidential Decree Number 80 of 2003 concerning Guidelines for Procurement of Government Goods and Services and their amendments are not considered illegal acts in criminal law. Because, it does not contain criminal provisions. According to the author, it is more accurately classified as an act of abuse of authority, because the defendant has used his authority not in accordance with the purpose of that authority, not an act against the law as indicted by the prosecutor / public prosecutor, so that the panel of judges imposes a crime on the primary indictment. abuse of power as indicted in the subsider indictment.

*D. Verdict Analysis*

- a) *Primair* in Article 2 paragraph (1) junto article 18 paragraph (1), paragraph (2), paragraph (3) Law Number 31 Year 1999 concerning Eradication of Corruption Crime, which is united with Law Number 20 Year 2001 regarding amendments On the Unda on the Eradication of Corruption in junto Article 55 paragraph (1) of the Criminal Code.
- b) *Subsidaire* in Article 3 junto article 18 paragraph (1), paragraph (2), paragraph (3) Law Number 31 Year 1999 concerning Eradication of Corruption Crimes, which is united with Law Number 20 Year 2001 concerning Amendments to the Unda on Eradication Junto Corruption Crime Article 55 paragraph (1) of the Criminal Code.

Based on Law Number 31 of 1999 concerning Eradication of Corruption Crime, which is integrated with Law Number 20 of 2001 concerning amendments to the Law on Corruption Eradication. Here, the elements and the threat of punishment in article 2 are as follows:

- a) *"Every person who unlawfully commits an act of enrichment for himself or another person or a corporation that can harm the State's finances or the economy of the State, shall be punished with life*

*imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). "*

While, the elements and threats of punishment in article 3 are as follows:

*b) "Anyone who with the aim of benefiting himself or another person or a corporation, misuses his / her authority, opportunity, or means because of his position or because of his position which may cause loss to the state finances or the economy of the State, shall be sentenced to life or imprisonment at the minimum. 1 (one) year and or a fine of at least Rp. 50,000,000.00 (fifty million) rupiah and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).*

In 10 (ten) Court Decisions, Application of the Imposition of Criminal Against the defendant / perpetrator a civil servant who has a position or position in the procurement of goods and services as a budget user (PA) or a Budget User Proxy (KPA), the panel of judges imposes a crime based on legal considerations. namely 6 (six) found guilty of committing a criminal act of corruption violating Article 3 (elements of abuse of power) of Law Number 31 of 1999 which is united with Law Number 20 of 2001 concerning amendments to the Law on Eradicating Corruption as indicted in Subsair charges for imprisonment of 1 (one) year to 3 (three) years and a fine of Rp. 50,000,000 (fifty million rupiah). Meanwhile, 4 (four) were found guilty of committing a criminal act of corruption violating article 2 (against the law) of Law Number 31 of 1999 which was combined with Law Number 20 of 2001 concerning amendments to the Law on Eradicating Corruption as indicted in the indictment. Primary Criminal imprisonment of 4 (four) years to 5 (five) years and a fine of IDR 200,000,000 (two hundred million rupiah).

#### 4. CONCLUSION

This study has been successfully analyzed. Here, the formulation in article 3 of the Corruption Eradication Law, the core offense such as Benefit yourself or other people or a corporation, misusing existing authority, opportunity, or means to him because of position or position, and Adverse State finances or the country's economy. The subject of the offense in article 3 of the Corruption Eradication Law is "Everyone". Based on the provisions of article 1 point 3 of the Corruption Eradication Law, what is meant by "Everyone" is an individual and a corporation. According to the study, it is more accurately classified as an act of abuse of power, because the defendant is a civil servant who has a position

or position has used his authority not in accordance with the purpose of that authority, not an act against the law as indicted by the prosecutor / public prosecutor, so that the panel of judges imposes a criminal on the primary charge.

Here, the 10 (ten) Court Decisions, Application of the Imposition of Criminal Against the defendant / perpetrator a civil servant who has a position or position in the procurement of goods and services as a budget user (PA) or a Budget User Proxy (KPA), the panel of judges imposes a crime based on legal considerations. namely 6 (six) found guilty of committing a criminal act of corruption violating Article 3 (elements of abuse of power) of Law Number 31 of 1999 which is united with Law Number 20 of 2001 concerning amendments to the Law on Corruption Eradication as indicted in Subsair charges for imprisonment for 1 (one) year to 3 (three) years and a fine of Rp. 50,000,000 (fifty million rupiah). Meanwhile, 4 (four) were found guilty of committing a criminal act of corruption violating article 2 (against the law) of Law Number 31 of 1999 which was combined with Law Number 20 of 2001 concerning amendments to the Law on Eradicating Corruption as indicted in the indictment. Primary Criminal imprisonment of 4 (four) years to 5 (five) years and a fine of IDR 200,000,000 (two hundred million rupiah). If we look at the imposition of Article 3 (three) punishment is relatively lighter so that it does not provide a deterrent effect. it should be heavier at least for at least 5 (five) years because the perpetrator is an ASN who has a position or position.

Thus, the regarding the Core Elements in Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, it should be more pressing to abuse of authority if the perpetrators are Civil Servants who have Position or Position. Article 3 should have been subjected to article 3 but it turns out that the prosecutor and the judge used Article 2 indeed with the sentence had a deterrent effect, in the substance of Article 2 and Article 3, when and when to violate Article 2, and at which time when violated Article 3, there should be a difference. these provisions, so that there is no misunderstanding in the application of the imposition of punishment which creates legal uncertainty. Furthermore, in legal considerations, the panel of judges stated that the Defendant was legally and convincingly proven guilty of committing the crime of "collective corruption". Imposing a punishment to the Defendant is therefore subject to imprisonment of 5 (five) years and a fine of Rp.200,000,000.00 (two hundred million rupiah), provided that if the fine is not paid, then it is replaced by imprisonment of 6 (six). months, Ordered the Defendant to be detained, because it was proven that he had violated Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning Eradication of Corruption as amended by Law Number 20

of 2001 concerning Eradication of Corruption, according to the author. in this matter or at least the panel of judges in imposing a criminal sentence on the defendant of the 10 (ten) Court Decisions, the Application of Criminal Imposition Against the defendant / perpetrator a civil servant who has a position or position in the procurement of goods and services as a budget user (PA) or a Budget User Proxy (KPA), the panel of judges imposes a crime based on legal considerations, namely 6 (six) found guilty of committing a criminal act of corruption violating Article 3 (element of abuse of authority) 4 (four) proven guilty of committing a criminal act of corruption violating Article 2 (against the law). Here, the public prosecutor and a panel of judges have declared guilty to the defendant of abuse of authority as indicted in the subsidiary indictment. Because the Defendant is a Civil Servant who has a position or position as a Budget User (PA) or a Budget User Proxy (KPA) for the procurement of goods and services. Article 3 should have been subjected to article 3 but it turns out that the prosecutor and judge used Article 2, indeed with the sentence it has provided a deterrent effect, there should be a difference in the substance of Article 2 and Article 3 when it violates Article 2 when it violates Article 3. Article 3 should be revised to a higher prison sentence or heavier, namely a minimum of 5 (five) to 7 (seven) years and a maximum of 20 (twenty years) because the perpetrator is an ASN who has a position or position that must be distinguished specifically from general elements.

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Received: 28 February 2021, Accepted: 30 April 2021