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JURIDICAL ANALYSIS OF MINIMUM CRIMINAL IMPOSITIONS FOR PERSONS OF CORRUPTION CRIMINAL ACTS (STUDY OF DECISION NUMBER 43/Pid.Sus-TPK/2022/PN.Mdn)

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Abstract

The crime of corruption is a serious crime and must be eradicated in the Unitary State of the Republic of Indonesia, because it can harm the country. In terms of preventing and eradicating corruption, Indonesia has regulated it in Law number 20 of 2001 as an amendment to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. In this research, there are 3 discussions that will be explained in this research, namelyWhat is the role of judges in applying minimum criminal sanctions for perpetrators of criminal acts of corruption according to the provisions of the law, what are the basic considerations of judges in imposing sentences below the minimum threat for perpetrators of criminal acts of corruption and what is the legal basis for the judge's rationale for imposing criminal sanctions below the minimum for criminal acts of corruption? , in accordance with the provisions of Law Number 20 of 2001regarding changes to Law Number 31 of 1999 concerning the Eradication of Corruption Crimesin accordance with the provisions of Article 2 Paragraph (1) Every person who unlawfully commits an act of enriching himself or another person or a corporation which can harm state finances or the state economy, shall be punished with life imprisonment or a minimum imprisonment of 4 (four) years. and a maximum of 20 (twenty) years and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 1,000,000,000.00 (one billion rupiah). However, in the case of this research, the judge decided the case was below the minimum sentence.

Keywords: Application of Minimum Sanctions, Corruption Crimes

A. INTRODUCTION

The crime of corruption is a social crime that can damage the foundations of government structures and become the main obstacle to development, in fact corruption can become the most feared scourge in a country because it can shake or even overthrow a government that is in power. Corruption crimes have truly become a real threat to survival. The development of criminal acts of corruption continues to increase from year to year, both in the number of cases, the amount of state losses and their quality. The Indonesian state is a state of law (rechstaat) contained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This implies that all orders of national, social and state life are based on law. Therefore, the state carries out all government and community activities based on applicable laws and regulations. The targets of the Law that are intended to be addressed are not only people who are clearly acting against the Law, but also legal acts that may occur, and to the state's equipment to act according to the Law, the system of how the Law works is a form of Law enforcement. Criminal Law is one of the sub-systems in the legal system in Indonesia. It can be said that criminal law is the law that determines what actions or who can be punished and what sanctions are available. Thus, the prohibition or requirement is accompanied by a threat of punishment, which if violated gives rise to the state's right to make demands, impose a penalty and carry out the sentence.

In principle, the provisions of Criminal Law can be classified into general Criminal Law and special Criminal Law. The provisions of general criminal law are intended to apply generally as regulated in the Criminal Code (KUHP), while the provisions of special criminal law are intended to be provisions of criminal law which regulate the specificity of the subject and specific acts, in this case one of An example of a criminal act that falls under special criminal law is a criminal act of corruption. Corruption is an action carried out by anyone who unlawfully enriches themselves or another person or a corporation which can harm the country or the country's economy. Corruption is the result of a situation and condition where a person needs more income or feels less than what he gets if he runs a business in a legal way. In its development from year to year, the cases that occur in terms of the quality of criminal acts committed are becoming more systematic and their scope has entered all aspects of community life. Therefore, the criminal act of corruption is considered a serious crime, so that handling it and proving it requires serious, professional and independent steps. Corruption means that the state experiences losses in the form of money and assets that should belong to the state. In terms of eradicating corruption, the Indonesian government has promulgated Law Number 20 of 2001 as an amendment to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes which also aims to restore state losses. Returning state losses is an effort that must be carried out to restore the state's economy which resulted in criminal acts of corruption, however, it is within the scope of the Law on the Eradication of Corruption Crimes which indirectly provides an opportunity for convicts to determine the choice of whether to pay a replacement penalty. or choose to undergo the punishment specified in the judge's decision.

This can be seen in the formulation of Article 18 paragraph (1) letter b of the Corruption Eradication Law which states that apart from additional punishment as intended in the Criminal Code, additional punishment is the payment of replacement money in the amount of the property obtained. from criminal acts of corruption. Furthermore, Article 18 paragraph (2) of the Corruption Eradication Law states "if the convicted person does not pay the replacement money as intended in paragraph (1) letter b no later than 1 (one) month after the court decision which has obtained permanent legal force , then their assets can be confiscated by the prosecutor and auctioned off to cover the replacement money," while Article 18 paragraph (3) of the Corruption Eradication Law states "in the event that the convicted person does not have sufficient assets to pay replacement money as intended in paragraph (1) letter b, then he will be sentenced to imprisonment for a term that does not exceed the maximum penalty of the main sentence in accordance with the provisions of this law and therefore the sentence has been determined in the court decision." So that the state does not experience losses, the state must take back the money taken by corruptors to the state treasury. In recovering lost state losses, the state already has an agency tasked with doing this, namely the Prosecutor's Office. On the other hand, there is a lot of confusion regarding the provisions of Article 18 of Law Number 31 of 1999 which leaves several problems in the practice of covering the shortfall against State Losses. In District Court decisions, apart from the main punishment, the judge usually also decides on additional punishments in the form of compensation money for those convicted of corruption crimes.

In this regard, it is important and interesting for writers to submitJURIDICAL ANALYSIS OF MINIMUM CRIMINAL IMPOSITIONS FOR PEOPLE OF CORRUPTION CRIMES (STUDY RULING NUMBER 43/Pid.Sus-TPK/2022/PN Mdn).This decision is a criminal case of corruption. The defendant who is the Head of the North Sumatra I and II Passenger Motor Ship Unit (KMP) at Simanindo Port was charged with violating Article 2 paragraph (1) Jo. Article 18 paragraph (1), paragraph (2) and paragraph (3) of Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Crimes. This is based on the Report of the Public Accounting Office (KAP) Drs. Katio & Partners Number 102-21 dated 12 November 2021 regarding Audit Results of Calculation of State Corruption Financial Losses

on alleged criminal acts of corruption in the management of the North Sumatra I and North Sumatra KMP Passenger Motor Ship (KMP) units at PT. North Sumatra Infrastructure Development for the period December 2019 to 2020. Then the Defendant returned the state's financial losses by depositing a total of Rp. 229,742,557,- (two hundred twenty-nine million seven hundred forty-two thousand five hundred and fifty-seven rupiah) in the custody account of the Samosir District Prosecutor's Office at Bank Mandiri Account Number RPL 125 PDT Prosecutor's Office (107-00-1295999-7). The return of money through cash bank deposits in the amount mentioned above in the trial process is considered as a return of state financial losses, so in accordance with the provisions of Article 4 of the Corruption Eradication Law that the return of losses to the state or the state's economy does not erase the criminal offense as referred to in Article 2 and Article 3, and in the explanation of Article 4, it is stated that returning losses to state finances or the state economy is only one of the mitigating factors. Therefore, the trial process for criminal acts of corruption committed by the Defendant continues until the court decision at the Special Class 1 A Medan District Court.

B. FORMULATION OF THE PROBLEM

1. What is the role of judges in implementing minimum criminal sanctions for perpetrators of criminal acts of corruption according to the provisions of the law?
2. How did the Judge consider Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn?
3. What is the author's analysis of Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn?

C. RESEARCH METHODS

1. .Nature of Research

The nature of the research is descriptive research, namely the aim of describing or analyzing research results. This research describes about JURIDICAL ANALYSIS OF MINIMUM CRIMINAL IMPOSITIONS FOR PEOPLE OF CORRUPTION CRIMES (STUDY RULING NUMBER 43/Pid.Sus-TPK/2022/PN Mdn).

2. Types of research

This type of research is normative juridical research, namely research that refers to previous research and originates from several other studies.

3. Method of collecting data

Because this research is empirical juridical research, the data collection method used is Library Research. Where the data is collected in accordance with this research.

4. Data Type

a. Primary Legal Materials

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Corruption Crimes and Law Number 48 of 2009 concerning Judicial Power. Data obtained from books, documents, scientific legal writings and the internet.

b. Tertiary Legal Materials

Data whose legal materials provide explanatory information regarding primary legal materials and secondary legal materials.

5. Data analysis

After the data has been collected, both primary and secondary, it is then analyzed again using qualitative analysis methods as data analysis based on quality, quality and real characteristics that apply in society. How to analyze data sourced from legal materials based on concepts, theories, statutory regulations, doctrine, legal principles, expert opinions or researchers' own views, which are related to JURIDICAL ANALYSIS OF MINIMUM CRIMINAL IMPOSITIONS FOR PEOPLE OF CORRUPTION CRIMES (STUDY RULING NUMBER 43/Pid.Sus-TPK/2022/PN.Mdn).

D. DISCUSSION

1. The Role of Judges in Applying Minimum Criminal Sanctions for Perpetrators of Corruption Crimes According to the Provisions of Law

The judge imposes criminal sanctions always referring to the Criminal Code (KUHP), namely by using a special minimum and general maximum system as well as a general minimum without regulating the special system, so that the impact of the decision handed down in the trial (inkracht van gewijsde) is a verdict. which has the force of law but sometimes gives rise to a feeling of injustice, because judges often hand down sentences in criminal cases that are very light (below the minimum standard) compared to the crime and the consequences of the crime.

As explained in the literature review, the Criminal Code only sets a general maximum and a special maximum and a general minimum. Article 12 paragraph (2) of the Criminal Code states that the minimum penalty for imprisonment for a certain period is 1 (one) day and a maximum of 15 (fifteen) consecutive years. -continuously. Then, Article 18 paragraph (1) of the Criminal Code states that the shortest sentence of imprisonment is 1 (one day) and the maximum is 1 (one) year, while the general penalty for fines is no maximum. These two articles only regulate general maximum and general minimum provisions in the Criminal Code, then specific maximums are contained in the articles without regulating specific minimums.

The general maximum provisions in the Criminal Code for imprisonment are 15 (fifteen) consecutive years and for imprisonment for 1 (one) year while the general minimum provisions in the Criminal Code for imprisonment are 1 (one) year and for imprisonment is for 1 (one) day. By setting a minimum, general and special maximum system as well as a special minimum system, the judge in handing down a sentence can move between the highest and lowest penalties. In the maximum system contained in the Criminal Code there are regulations regarding inclusion (delneeming), trial (poging), concursus, repetition (recidive) for reasons of aggravation and mitigation of the crime, in the imposition of the sentence it can be aggravated and lightened, while in the special minimum system it is not There are guidelines that regulate this matter. Various threats of criminal sanctions are listed in the Criminal Code, so alternative threats are often applied in one article.

In addition, there is no special minimum system for each crime that includes these articles, so judges have very wide freedom in determining the severity of the crime, as a result of these provisions, it will give rise to disparities in decisions. One of the advantages of including a special minimum system in each article, for example the explanation in Law Number 20 of 2001, Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, is that it reduces criminal disparities because Judges have clear guidelines in imposing sanctions, The severity of the short criminal sanctions is 1 (one) day and the maximum is 15 (fifteen) consecutive years. Then, Article 18 paragraph (1) of the Criminal Code states that the shortest sentence of imprisonment is 1 (one day) and the maximum is 1 (one) year, while the general penalty for fines is no maximum. These two articles only regulate general maximum and general minimum provisions in the Criminal Code, then specific maximums are contained in the articles without regulating specific minimums. The general maximum provisions in the Criminal Code for imprisonment are 15 (fifteen) consecutive years and for imprisonment for 1 (one) year while the general minimum provisions in the Criminal Code for imprisonment are 1 (one) year and for imprisonment is for 1 (one) day. By setting a minimum, general and special maximum system as well as a special minimum system, the judge in handing down a sentence can move between the

highest and lowest penalties.

In the maximum system contained in the Criminal Code there are regulations regarding inclusion (delneeming), trial (poging), concursus, repetition (recidive) for reasons of aggravation and mitigation of the crime, in the imposition of the sentence it can be aggravated and lightened, while in the special minimum system it is not There are guidelines that regulate this matter. Various threats of criminal sanctions are listed in the Criminal Code, so alternative threats are often applied in one article. In addition, there is no special minimum system for each crime that includes these articles, so judges have very wide freedom in determining the severity of the crime, as a result of these provisions, it will give rise to disparities in decisions. One of the advantages of including a special minimum system in each article, for example the explanation in Law Number 20 of 2001 regarding amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, is that it reduces criminal disparities because Judges have clear guidelines in handing down sanctions, the severity of the criminal sanctions imposed is proportional to the crime and the consequences of the crime.

In the context of the Judge's sentencing, the Judge may decide on a minimum sanction, especially in Corruption Crime cases. Regarding minimum sanctions provisions have been regulated for each specific crime. In the application stage, in special criminal cases as charged by the Public Prosecutor against the defendant, it turns out that there are several Judges (with certain legal considerations) who impose a minimum penalty of a special minimum penalty in the formulation of the offense, if it is linked to the legislation (legislator) that stipulates the Criminal special minimums for certain offenses to support the principles of Criminal Law. At the application level, both the maximum and minimum decisions in a criminal decision handed down by a judge can have a wide impact, not only for the perpetrator of the crime in question, but also for the victim and society. This matter in the criminal sentencing process, apart from being in touch with juridical aspects, is also related to sociological and philosophical aspects.

As stated in the theoretical basis, the legal rules of a criminal decision must ideally fulfill three types of elements, namely:

1. juridical basis,
2. Sociological, and
3. Philosophical

Judges use comprehensive juridical analysis methods to solve the law of the cases they handle. The juridical aspect is the first and main approach, namely in accordance with applicable statutory provisions, the philosophical approach is based on truth and a sense of justice, while the sociological approach is in accordance with the cultural values that apply in society. According to Joni, the application of minimum sanctions in specific criminal cases, for example corruption cases, when referring to statutory regulations, still considers two objective and subjective sides. From an objective perspective, it is explained that the philosophical basis for acts of corruption is to prevent state losses, in addition, to see how much the state loses from corruption. From a subjective perspective, the judge assesses the defendant's actions, namely looking at the level of punishment proportional to the crime and the consequences of the crime.

In principle, according to Joni, the application of minimum sanctions still refers to specific minimum standards. The basic requirements and additional requirements must be separated, so that in Article 2 of the law corruption only applies to people who have the position of state administrators or who have authority or position. Article 3 is only intended for ordinary civil servants (PNS), because they do not have a position, even though corruption is carried out in small amounts, it is carried out continuously, so that it can cause

very large losses to the state. Joni believes that the minimum standard threat in Article 3 should be similar to the threat in Article 2. According to the respondent, the specific minimum standard threat in Article 3 should be of a higher standard or at least the same as Article 2 in narcotics and psychotropic cases. provide limitations of understanding, especially in the law regarding drugs. According to him, in interpreting laws, there is a difference between lay understanding and legal understanding. Based on the opinion above, in general the author can give a response that the judge applying the verdict through a copy of the decision should refer to the formulation of the law, ideally the judge decides at least the same or exceeds the minimum standard as formulated in the special criminal articles that regulate the provisions minimum so that it cannot change the legal force of the law, cannot add to it, cannot reduce it because the law is the only source of positive law.

Thus, the author agrees with Article 20 AB No. 14 of 1970, namely "Judges must judge according to the law, except as provided in Article 11, Judges must not at all judge anti- or fairness of the law." Judges in deciding a case are based on facts from juridical and sociological considerations including philosophical considerations. Judicial consideration is the judge's consideration which is based on the juridical facts revealed in the trial and determined by law as matters that must be included in the decision. These matters include the Public Prosecutor's Indictment, Defendant's Statement, Witness Statement, Evidence and Articles in the Criminal Law Regulations. Based on the results of his study, the coordinator concluded that judges are basically free to interpret the provisions of the law regarding a legal issue that is presented to them before the court, including the authority to interpret the provisions regarding special minimum sentences in the Corruption Crime Law. The special minimum penalty provisions in the Corruption Crime Law can be bypassed as long as the judge has the right legal recension or residency ratio for a corruption case by looking at the large or small scale of the corruption case with various considerations with interpretation patterns from various perspectives, social perspectives and social perspectives. justice, moral justice and community justice are the most dominant considerations in passing decisions below the minimum sentence limit. This is reflected in several court decisions that handed down sentences below the minimum sentence limit.

Sentencing under special minimum criminal provisions in law enforcement for criminal acts of corruption in several court decisions can be carried out with several criteria which are taken into consideration in overriding the minimum criminal provisions. The most basic criteria in the context of criminal acts of corruption are, the existence of an element of loss to state finances or the state economy as a result of the criminal act of corruption and the criteria for the role and position of the defendant in the criminal act of corruption. This criterion is used to measure the extent to which the court decision meets the elements of a sense of justice which is one of the objectives of enforcing the Corruption Criminal Law, even though formally the elements of the Corruption Crime are fulfilled based on the provisions of the law, materially the value of the state financial losses charged is very small and the role and the defendant's involvement in the crime of corruption was not very active, the formal provisions of this special minimum sentence can be set aside.

2. Judge's Considerations in Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn

Judges in deciding a case are based on facts from juridical and sociological considerations including philosophical considerations. Judicial consideration is the judge's consideration which is based on the juridical facts revealed in the trial and determined by law as matters that must be included in the decision. These matters include the Public Prosecutor's Indictment, Defendant's Statement, Witness Statement, Evidence and Articles in the Criminal Law Regulations. When related to the Medan District Court Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn, the Judge's considerations include, among other things, the Subsidiary Indictment Article 3 Jo. Article 18 paragraph (1) of Law Number 31

of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, the elements of which are every person who fulfilled and proven by the Defendant, the element with the aim of benefiting himself or another person or a corporation, this has been fulfilled to benefit the defendant's own actions, the element of abusing the authority of the opportunity for the means available to him because of his position or position has been fulfilled in the Defendant's actions, as well as elements that could harm state finances or the state economy, in this case the defendant's actions have caused harm to state finances. Non-juridical considerations or sociological considerations include, among other things, the defendant's background, the consequences of the defendant's actions and the defendant's personal condition. Whereas in accordance with Article 5 paragraph (1) of Law Number 48 of 2009 concerning judicial power, it states that judges are obliged to explore, follow and understand the legal values and sense of justice that exist in society, including:

a. Pay attention to the sources of unwritten law and the values that live in society
b. Pay attention to the good and bad characteristics of the Defendant as well as the mitigating and aggravating values of the Defendant
c. Pay attention to whether there is a mistake or not, the role of the victim
d. Cultural factors are the result of creative works and feelings that are based on human feelings in social life.

In this case, the Judge considered the things that aggravated the Defendant, namely that he did not support the government's program in eradicating criminal acts of corruption and the mitigating factors included that the Defendant had never been convicted and the Defendant had already repaid state financial losses.Punishment of the perpetrator must look at the mistake committed. This is based on the principle of error. The terms of punishment in a decision depart from two very fundamental pillars, namely the principle of legality which is a societal principle and the principle of guilt which is a humanitarian principle. In this case, with decision no. 43/Pid.Sus-TPK/2022/PN.Mdn at the first instance at the Medan District Court, the Judge considered to the defendant that the panel of Judges were of the opinion that the complete elements attached to the defendant had the aim of benefiting themselves or other people or a cooperative, had fulfillment of the defendant's actions in committing a criminal act of corruption and the defendant has submitted a statement before the panel of judges regarding, as clearly as possible, embezzlement of funds amounting to Rp. 229,742,557,- (two hundred twenty-nine million seven hundred forty-two thousand five hundred and fifty-seven rupiah). The Panel of Judges considered that the description of the considerations above, the element of "harming the state's finances or the state's economy" had been fulfilled and proven.

Considering, that regarding reimbursement of state finances, as stated in article 18 paragraph (1) letter b of Law Number 31 of 1999 as amended by Law Number 20 of 2001 explains the payment of compensation for losses in a maximum amount equal to the assets objects obtained from criminal acts of corruption. And considering that the panel of judges assessed that the basis for the defendant committing a criminal act of corruption was based on abuse of authority, as is known, the recap of ticket sales results did not match the sales recap and the defendant was not active in carrying out verification, and the problem occurred in the scope of the world of work, not solely to enrich himself. themselves or enjoy the results of corruption individually but purely because of the opportunity or means available to them in their position or position, where authority means power or rights, so that abuse of the power or rights that exist in the perpetrator is characterized by minimal state treasury income and increasingly maximum state expenditure. in the last 5 months since the suspect was determined to have committed a criminal act of corruption. Considering, that the elements of the description above, all elements of the criminal act in

the subsidiary indictment are violating Article 3 in conjunction with Article 18 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of criminal acts of corruption has been fulfilled. The panel of judges determines the main sanction against the defendant, meaning that the prison term is fully carried out and the detention period is reduced from the total main sentence determined by the panel of judges and the payment of the fine is charged to the defendant.[1].

3. Author's Analysis of Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn

According to the author's analysis regarding decision Number 43/Pid.Sus-TPK/2022/PN.Mdn which contains criminal acts of corruption as charged by the Prosecutor's Office Article 2 Paragraph (1) Jo Article18 paragraph (1) letter b Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The judge decided on the charges based on Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, on the grounds that the defendant was a state official and had authority. In this case the author does not comment on the decision, but the author only wants to provide input regarding the decision. According to the author, the decision still refers to Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. to the defendant who was sentenced using Article 3. Minimum sanctions against someone who commits a criminal act of corruption, especially in Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn.

that the defendant has made compensation according to how much he was corrupted, but this does not mean that the judge acquitted the defendant, that is where the judge's jurisprudence still gives the defendant a minimum sanction. The appropriateness of the sentence imposed on the defendant is based on the theories of criminal imposition, namely: philosophical, sociological, juridical foundations and their benefits. The philosophical basis is a consideration or reason that illustrates that the regulations formed take into account the outlook on life, awareness and legal ideals which include the spiritual atmosphere and philosophy of the Indonesian nation which originates from Pancasila and the Preamble to the 1945 Constitution. Meanwhile, on a sociological basis, these are considerations or reasons that illustrate that regulations are formed to meet the needs of society in various aspects, as well as involving empirical facts regarding the development of problems and needs of society and the state, with the imposition of a minimum sentence on a sociological basis, trust will emerge in society. towards justice and legal certainty where perpetrators of criminal acts, especially criminal acts of corruption, will be sentenced according to the size of the state losses that have been caused by these acts of corruption. The judge's decision will also be a tool of social control that will prevent a person or group of people from committing a criminal act.

Meanwhile, the juridical basis is a consideration or reason that illustrates that regulations are formed to overcome legal problems or fill legal gaps by taking into account regulations that already exist, will be changed, or will be revoked in order to guarantee legal certainty and the community's sense of justice. The juridical element concerns legal issues relating to the substance or material being regulated so that new statutory regulations need to be formed. Some of the legal problems include regulations that are outdated, regulations that are not harmonized or overlap, types of regulations that are lower than the law so that their validity is weak, regulations already exist but are inadequate, or regulations do not exist at all. Then the benefits of imposing a minimum sentence for criminal acts of corruption for society and the State must be based on justice and legal

[1]Corruption Crime Case Decision no. 43/Pid.Sus-TPK/2022/PN.Mdn

certainty. A judge's decision that reflects usefulness is when the judge not only applies the law textually, but the decision can be executed in real terms so as to provide benefits to the interests of the litigants and benefits to society in general. The decision issued by the judge is a law which must maintain balance in society, so that society can once again have complete trust in law enforcement officials. Judges in their legal considerations with good reasoning can decide a case by placing a decision when it is closer to justice and when it is closer to legal certainty. Basically, the principle of expediency is situated between justice and legal certainty, where judges value the purpose or usefulness of the law in the interests of society. The emphasis on the principle of benefit tends to have an economic nuance. The basic idea is that law is for society or many people, therefore the purpose of life must be useful for humans. Because the Crown of the Court is the implementation of the decision (execution).

E. CLOSING

Based on the results of research and discussion, it can be concluded as follows.

a. Conclusion

1) The role of the Judge in applying minimum sanctions in specific criminal acts in the criminal justice process is very large, namely as giving the final decision, the judge is guided by statutory regulations. Thus, the author believes that judges should not impose sanctions below the minimum standard. On the grounds that the Indonesian state adheres to the Continental System, namely that judges (as a guideline for punishment) are bound by the law (conservative school). This is a realization of the principle of the binding persuasiveness of precedent. Apart from that, the context of minimum sanctions contained in the formulation of articles for specific criminal acts, clearly and unambiguously, contains a statement of criminal sanctions which contains maximum and minimum provisions, so that it does not require further interpretation. Apart from referring to Article 103 of the Criminal Code and 284 paragraphs (1) and (2) of the Criminal Procedure Code, the juridical basis for implementing sanctions, the judge referred to special criminal legislation which regulates special minimum provisions. Apart from the two articles above, jurisprudence can be used as a juridical basis for imposing sanctions, provided that it still refers to minimum provisions that are at least equal to or above the minimum. The Criminal Code has clearer and more specific criteria, so that it will not cause problems when dealing with cases related to mitigating and aggravating factors for the defendant.
2) In this case, with decision no. 43/Pid.Sus-TPK/2022/PN.Mdn. At the first instance at the Medan District Court, the Judge considered to the defendant that the panel of Judges was of the opinion that the elements attached to the defendant were complete, that the aim was to benefit himself or another person or a cooperative, that the defendant had fulfilled his actions in committing a criminal act of corruption and that the defendant had submitted a statement. before the panel of Judges, as clearly as possible, embezzlement of funds amounting to Rp. 229,742,557,- (two hundred twenty-nine million seven hundred forty-two thousand five hundred and fifty-seven rupiah), and bearing in mind that the panel of judges assessed that the basis for the defendant committing a criminal act of corruption was based on abuse of authority as is known from the recap of ticket sales not in accordance with the sales recapitulation and the defendant was not active in carrying out verification, and the problem occurred in the scope of the world of work not solely to enrich oneself or enjoy the results of corruption individually but purely because of opportunity or means. The panel of judges determines the main sanction against the defendant, meaning that the prison term is fully carried out and the detention period is reduced from the total main

sentence determined by the panel of judges and the payment of the fine is charged to the defendant.

3) Author's Analysis Analysis of Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn, the author does not comment on the decision but provides input that the decision agrees with the Judge's Decision, moreover the Judge has considered this, thereby providing justice to the defendant. The imposition of law must be seen from the basis of philosophy, sociology, jurisprudence and benefits.

b. Suggestion

1) Judge's Advice as a Judge's Role in Applying Minimum Criminal Sanctions for Perpetrators of Corruption Crimes According to the provisions of the Law, Judges in making decisions must pay attention to all aspects therein, starting from the need for caution, accuracy, skill, thoroughness and an attitude of satisfaction if the decision can be made. become a benchmark for similar cases and can be a reference for academics, theoreticians and legal practitioners and can fulfill a sense of conscience satisfaction for the judge if the decision made can be confirmed or not canceled by the High Court or Supreme Court if the case later comes to an end. to the level of appeal and cassation and continue to uphold justice for the sake of decisions that are just and have legal certainty, so that the public views of the judge, that the judge has carried out his duties well and correctly as a decision maker.
2) Suggestions regarding the Judge's Considerations in Decision Number 43/Pid.Sus TPK/2022/PN.Mdn, in the decision the Judge has carried out and has given the right decision in accordance with the facts of the trial as well as considerations and in accordance with the Judge's conscience. The author's suggestion is that the judge, when providing consideration analysis, maintains things that are fair and objective in accordance with the facts of the trial.
3) Author's advice regarding Decision Number 43/Pid.Sus-TPK/2022/PN.Mdn,The decision in this case is correct. As the author, I only give advice to the judge, when making a decision there is no interference from any party to maintain the integrity and honesty of the decision. However, the Judge can ask for advice from the Chief Justice or fellow Judges in making a decision.

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