

## LEGAL PROTECTION FOR CHILDREN UNDER 14 (FOURTEEN) YEARS OLD AGAINST VIOLENCE OFFENDER (ANALYSIS OF GARUT DISTRICT COURT DECISION NUMBER 1/PID.SUS-ANAK/2024/PN GRT)

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### Abstract

Garut District Court issued decision number 1/Pid.Sus-Anak/2024/PN Grt involving Akbar Rozak Alias Akbar who committed violence against the victim Agum Gumelar (deceased) until he died because he was annoyed by the victim who hit him hard while playing volleyball. The crime was committed by slashing 1 (one) cutter knife blade towards the victim's neck and right wrist and the victim was carried away by the Cimanuk River current. For his actions, the Panel of Judges imposed a correctional sanction for 1 (one) year at the Griya Bina Karsa Social Service Center-West Java Provincial Social Service in Cileungsi and participated in job training for 2 (two) months. This study aims to analyze the legal considerations (ratio decidendi) that have been used by the Panel of Judges in the decision of case number 1/Pid.Sus-Anak/2024/PN Grt and analyze the value of legal certainty and benefits for child perpetrators regarding the application of the law carried out by the Panel of Judges in the decision of case number 1/Pid.Sus-Anak/2024/PN Grt. The method used is normative juridical research with a case approach. The results of the study show that the Judge's considerations in decision number 1/Pid.Sus-Anak/2024/PN Grt which imposed sanctions on children were based on the principles of criminal law for children which are different from those for adults. The main focus is the best interest of the child, rehabilitation, and social reintegration. Several important elements in the legal considerations by the Judge consist of consideration of the principles of child protection, the age and maturity factors of the child, the severity of the violent crime committed, the child's attitude in court, recommendations from the Correctional Center, consideration of the type of sanctions, and the implementation of restorative justice. In decision number 1/Pid.Sus-Anak/2024/PN Grt in which the Panel of Judges imposed sanctions against the child, in fact the Panel of Judges did not explain the reasons for imposing other sanctions in the form of 2 months of job training. In fact, Akbar Rozak's child can only be subject to sanctions because he is not yet 14 years old. In addition, job training is one of the main types of punishment for children. So by simultaneously imposing sanctions in the form of action and criminal action against Akbar Rozak's child, it creates legal uncertainty, but on the other hand, imposing these sanctions can provide legal benefits for the child who committed the crime.

**Keywords:** *Children, Legal Protection, Sanctions, Criminal, Actions*

### Introduction

Garut District Court is one of the district courts in West Java Province and has legal jurisdiction in Garut Regency. Based on data obtained from the Garut District Court's Case Tracking Information System (SIPP), from 2021 to March 2025, there were 15 cases of violent crimes in which the perpetrators were minors. Of the 15 cases of criminal violence, there is 1 decision that is of concern, namely the Decision on the Child Criminal Case Number 1/Pid.Sus-Anak/2024/PN Grt dated June 11, 2024, which involved a minor named Akbar Rozak alias Akbar Bin Rahmat who had committed violence against a child resulting in death according to the second alternative charge from the Public Prosecutor at the Garut District Attorney's Office. Akbar Rozak alias Akbar Bin Rahmat committed a crime against Agum Gumelar (late) Bin Solihin (the deceased victim) on Monday, October 31, 2023 at around 13.00 WIB, the victim Agum Gumelar (late) Bin Solihin came to the perpetrator's child's house to invite him to play volleyball with the witness's child Saepul Bin Juli on the volleyball court located in Cikendal Village, Leuwigoong Village, Leuwigoong District, Garut Regency. While playing volleyball, the victim hit the ball (smashed) so hard that it hit the perpetrator's child's face several times. After the perpetrator's child, the victim, and the witness's child, Saepul Bin Juli, rested while buying packaged drinks at a stall not far from the volleyball court, the victim invited the

perpetrator's child and the witness's child, Saepul Bin Juli, to swim in the Cimanuk River in Cijeler Village, RT. 001, RW. 008, Leuwigoong Village, Leuwigoong District, Garut Regency. When they left for the Cimanuk River, the perpetrator's child had brought a red and green folding cutter knife with a length of approximately 10 cm which he had taken from the house of his friend named Arkan. Then, when the victim was swimming in the Cimanuk River, the perpetrator's child, who was still annoyed with the victim, then approached the victim and committed violence against the victim by slashing the cutter knife he was carrying at the victim's neck twice and also slashing the knife at the victim's right wrist until finally the victim was swept away by the strong current of the Cimanuk River and then the perpetrator's child threw the evidence in the form of the cutter knife into the river. The victim's body was found several days later, namely 4 days later, on Friday, November 3, 2023, at around 10:00 a.m. WIB by witness Haerudin alias Ayot Bin Warta on the banks of the Cimanuk River in Babakan Serang Village, RT. 001, RW. 010, Cibiuk Village, Cibiuk District, Garut Regency. For his actions, the Panel of Judges concluded that the perpetrator's child named Akbar Rozak alias Akbar Bin Rahmat was declared legally and convincingly proven guilty of committing the crime of violence against children resulting in death in accordance with Article 76C in conjunction with Article 80 Paragraph (3) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Furthermore, the Panel of Judges imposed a punishment in the form of action sanctions, namely treatment for 1 year at the Griya Bina Karsa Social Service Center - West Java Provincial Social Service in Cileungsi and carrying out job training for 2 months.

During the trial process, the Correctional Observation Team (TPP) of the Garut Correctional Center submitted a recommendation to the Panel of Judges stating that in the best interests of the child, the client should be sentenced to imprisonment at the Class I Bandung Special Children's Development Institution (LPKA) located at Jalan Pacuan Kuda Number 3, Sukamiskin Village, Arcamanik District, Bandung City, West Java Province. However, the Panel of Judges in this case did not agree with the recommendation from the Garut Correctional Center, in which in its decision the Panel of Judges imposed sanctions on the perpetrator's child because the perpetrator's child was not yet 14 years old as evidenced by the perpetrator's child's birth certificate which was born on April 12, 2011, thus at the time the perpetrator's child committed the crime he was still 12 years old. Considering that the child is still 12 years old, then based on the provisions of Article 69 Paragraph (2) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, children who are not yet 14 years old can only be subject to sanctions. However, in this case, apart from imposing sanctions, the Panel of Judges also added other sanctions against the child, namely criminal sanctions in the form of 2 months of job training. However, according to Indonesian laws and regulations, children under 14 years of age cannot be subject to criminal sanctions because legal protection for children is part of the protection of children's human rights. The main reasons why children cannot be sentenced for several reasons, namely children who are under 14 years old do not have mental and legal maturity, which means they tend to be considered not to fully understand the consequences of their actions, the existence of the principle of the best interest of the child, which means that providing protection and guidance is prioritized over imposing punishment, avoiding the negative effects of imprisonment for children because it is feared that imposing a prison sentence can damage the child's future and psyche, focusing on guidance and recovery with the aim of returning children who are perpetrators of crimes to a healthy social environment, and supporting the implementation of restorative justice by resolving cases through a recovery approach between the perpetrator, victim, and the community with provisions that have been previously regulated.

Thus, with the imposition of other sanctions by the Panel of Judges in the form of 2 months of work training, it will cause problems because the value of legal certainty from a statutory regulation, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, will not be realized. In addition, if we pay attention again to the legal considerations of the Panel of Judges, there are no legal considerations that point to the reasons for the Panel of Judges to impose the main criminal sanction of job training so that this will certainly be a problem because without any clear basis the Panel of Judges imposed the main criminal sanction of job training on the child perpetrator who is not yet 14 years old and of course clearly violates the provisions of Law Number 11 of 2012 concerning the Child Criminal Justice System. This context raises important issues: What are the legal considerations (*ratio decidendi*) of the Panel of Judges in imposing sanctions on children as perpetrators of violent crimes? Furthermore, has the application of the law by the Panel of Judges in case number 1/Pid.Sus-Anak/2024/PN Grt provided a sense of legal certainty and benefit to the child perpetrator?

## Research Methodology

This research uses a normative juridical research method because the problem being studied stems from a conflict of norms between the rules regarding sanctions against children under 14 years of age and the provision of a sense of legal certainty and benefit for child perpetrators. This normative juridical research method positions law as

a system of norms that includes principles, rules, and legal doctrines, and assesses the extent to which judicial regulations and practices, especially juvenile justice, provide a sense of justice, certainty, and legal benefits for the parties in the case, especially for children as perpetrators of criminal acts. To obtain a comprehensive and in-depth understanding, this research uses a case approach, namely an approach by conducting a review of cases related to the issues faced which have become court decisions that have permanent legal force. This approach aims to study the application of legal norms or rules that are carried out directly in legal practice. The types of legal materials used in this research include primary, secondary and tertiary legal materials. Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and Court Decision Number 1/Pid.Sus-Anak/2024/PN Grt. Secondary legal materials include supporting literature such as legal science books, law journals, law reports, as well as print and electronic media. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, language dictionaries, and websites related to research problems. This research data was collected through literature review techniques or activities to collect legal materials, namely by collecting and examining or tracing documents or literature that can provide the information or statements needed by the researcher. Researchers collect legal materials through internet searches, obtain them from books available at the Garut District Court Library and/or from other sources, which will then be analyzed to find and determine answers to the research problems. Data analysis was carried out using qualitative analysis methods, namely by interpreting or interpreting the legal materials that had been processed. This method was chosen to obtain legal clarity and consistency in the application of norms in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in cases involving children under 14 years of age who are perpetrators of violent crimes resulting in death, so that the results of the study are not only descriptive, but also provide a conceptual contribution to the development of juvenile criminal justice law that is just, certain, and has legal benefits for children who are perpetrators of crimes in Indonesia.

## **Research Results and Discussion**

### **1. Legal Considerations (Ratio Decidendi) of the Panel of Judges in Imposing Sanctions on Children as Perpetrators of Violent Crimes Research and Discussion**

#### **Position Case**

A child named Akbar Rozak alias Akbar Bin Rahmat (still 13 years old according to the Family Card) was charged by the Public Prosecutor at the Garut District Attorney's Office with the following alternative subsidiary charges:

- First Indictment
  - Primair : Intentionally and with prior planning, taking another person's life. This act is regulated and punishable by law under Article 340 of the Criminal Code.
  - Subsidiary : Intentionally taking another person's life. This act is regulated and punishable by law under Article 338 of the Criminal Code.
- Second Indictment : Charges of placing, allowing, committing, ordering, or participating in committing violence against children, resulting in death. This act is regulated and is subject to criminal penalties in Article 76C Jo. Article 80 Paragraph (3) of Law Number 17 of 2016 Jo. Law Number 35 of 2014 Jo. Law Number 23 of 2002 concerning Child Protection. second

#### **Legal Considerations of the Panel of Judges**

Furthermore, based on the legal facts revealed during the trial process, the Panel of Judges stated that Anak Akbar Rozak alias Akbar Bin Rahmat was legally and convincingly guilty of committing the crime of violence against children resulting in death in accordance with the provisions of Article 76C in conjunction with Article 80 Paragraph (3) of Law Number 17 of 2016 in conjunction with Law Number 35 of 2014 in conjunction with Law Number 23 of 2002 concerning Child Protection. Then the Panel of Judges imposed sanctions on the perpetrator's child, namely a sanction of 1 year of care at the Griya Bina Karsa Social Service Center - West Java Provincial Social Service in Cileungsi and carrying out job training for 2 months. From the imposition of sanctions on the child perpetrator, the Panel of Judges is of the opinion and considers its decision based on the legal facts proven in court based on the statements of 5 witnesses, 4 of whom gave statements under oath and 1 person gave statements without oath because he was still under 15 years old according to the provisions of Article 171 letter a of the Criminal Procedure Code. In addition to witness statements, the Panel of Judges also heard statements from forensic experts who were presented at the trial, whose statements were delivered under oath, a visum et repertum letter, and heard statements from the child perpetrator of the crime. In the criminal justice system, children who commit crimes are treated differently from

adults. This is in accordance with the principles of protecting children's rights in the 1989 Convention on the Rights of the Child and the Juvenile Criminal Justice System Law. Judges must consider various factors to determine appropriate sanctions and provide a deterrent effect for children who commit crimes. Therefore, legal considerations in the judge's decision regarding child perpetrators of crimes are very important to create consistency and balance between justice, protection of children's rights, and efforts to prevent further crimes. Legal considerations by judges are an important element in realizing the sense of justice that exists in society. From a juridical and sociological perspective, judges are often seen as representatives of noble values, and judges are often referred to as God's representatives on earth. Therefore, every decision made by a judge is expected to not only fulfill formal legal aspects, but also reflect the values of substantive justice that exist in the wider community. In general, legal considerations in a judge's decision can be considered as a basis for conducting a legal analysis to impose criminal sanctions and/or actions on the accused or child perpetrator of the crime. This legal consideration has a very important role because the more precise and better the legal consideration made by the judge, the more it reflects his sense of justice when deciding a case. Legal considerations in the judge's decision can be divided into 3 categories, namely:

1. Philosophical Considerations

Philosophical considerations in a judge's decision are considerations given to the accused or child perpetrator of a crime with the aim of controlling the behavior of the accused or child perpetrator of a crime. After serving a criminal sentence, it is hoped that the defendant or child perpetrator of the crime can improve himself, not repeat the crime, and can be accepted back into society. Philosophical considerations mean that judges must pay attention to aspects of justice in making decisions that are in harmony and in accordance with the provisions of applicable laws and regulations.

2. Legal Considerations

The legal considerations in the judge's decision are the judge's considerations which are based on legal facts which are revealed and obtained during the evidence process in the trial and which according to the law must be included in the decision. These matters include various aspects determined by law, including the public prosecutor's indictment, evidence as regulated in the Criminal Procedure Code, evidence, and articles related to criminal law.

3. Sociological Considerations

Sociological considerations in the judge's decision are considerations based on the social and economic background of the defendant or child perpetrator of the crime, the impact of the actions committed by the defendant or child perpetrator of the crime, the circumstances of the defendant or child perpetrator of the crime, and considering that the sentence imposed on the defendant or child perpetrator of the crime will provide benefits to society.

Legal considerations in court decisions can be said to be a form of the judge's responsibility for what he decides in the verdict, so that everything decided in the verdict must be properly considered in the legal considerations contained in the body of the verdict. It is very clear that the legal considerations in the judge's decision contain trial facts, the application of legal norms, and other relevant elements. Legal considerations in the judge's decision are used as the basis for making a decision, where the legal considerations in the judge's decision are the legal core of a decision and have binding force. Even a decision can be declared null and void by law if it does not contain adequate considerations and is in accordance with the legal facts at trial. The legal considerations or ratio decidendi of the Panel of Judges in imposing sanctions on children who are perpetrators of violent crimes are based on the principles of juvenile criminal law which are different from criminal law for adults. The main focus of these considerations is the best interests of the child, rehabilitation, and social reintegration. Judges handling juvenile criminal cases should be truly thorough and know all of the child's background before the trial is held. In making a decision, the judge must really pay attention to the emotional, mental and intellectual maturity of the child. Avoid judge's decisions that result in lifelong mental suffering or revenge for the child, based on the awareness that the judge's decision is motivated by protection. In making a decision, the judge must listen to and consider the research results of the Community Research Officer. The use of the Community Research Report for judges in making their decisions must be wise and fair.

There are several important elements in legal considerations by the Judge/Panel of Judges, namely:

1. Consideration of child protection principles

Consideration of the principle of protection for children who commit crimes is very important to ensure that even if children commit crimes, their rights as children are still respected and protected. This approach differs from the criminal justice system for adults because children are seen as individuals who are still in the process of growing and developing and have the potential to change and improve themselves. In making a decision regarding a child, a judge must consider the principles referred to in Article 2 of the Child Criminal Justice System Law, especially those relating to the principle of protection, the principle of justice, the principle



of non-discrimination, the principle of the best interests of the child, the principle of the child's survival and development, the principle of fostering and guiding the child, the principle of deprivation of liberty and criminal punishment as a last resort, and the principle of avoiding retaliation. Protection for child criminals does not mean freeing them from responsibility, but prioritizing an approach that educates, improves, and does not damage their future. The state and law enforcement officials are obliged to treat children who commit crimes by paying attention to their human rights as minors.

2. Age and maturity factors of the child

In dealing with children who commit crimes, the child's age and level of maturity are key factors in determining appropriate legal treatment. The legal approach to children is different from that of adults because children are considered not yet fully capable of understanding the consequences of their actions and are still in the process of character formation.

The age factor here means looking at the age of the child who committed the crime (whether the child is under 12 years old or between 12 and 18 years old. Meanwhile, the child's psychological maturity is a consideration in determining whether the child understands the consequences of the actions or crimes he has committed. Many children commit crimes due to environmental influences, peer pressure, lack of parental control or care, and ignorance of the law or social norms. Therefore, psychological and social assessments of children are often carried out by authorities, such as the Correctional Center, to assess the extent to which the child understands and is aware of his mistakes.

3. The severity of the crime of violence committed

In dealing with children who commit violent crimes, assessing the severity of the crime committed is an important factor in determining the legal steps and sanctions imposed. However, in the context of children, this assessment does not stand alone but is always linked to the principles of child protection, rehabilitation, and restorative justice. The following are several considerations in assessing the severity of violent crimes committed by children, namely:

a) Types and impacts of violent crimes

This is seen whether the violent crime committed by the child falls into the light, moderate, or serious category, resulting in light injuries, serious injuries, or even death for the victim. The more serious the consequences, the more serious the legal approach applied. In case number 1/Pid.Sus-Anak/2024/PN Grt, it was discovered that Anak Akbar Rozak alias Akbar Bin Rahmat committed a crime against the victim by slashing a cutter knife that he had previously brought towards the victim's neck and towards the victim's right wrist until the victim finally died and was swept away by the current of the Cimanuk River. According to the author, the actions of Akbar Rozak alias Akbar Bin Rahmat's son who first prepared a cutter knife and tucked it into his pants is more precisely an act of premeditated murder according to the First Primary Alternative Charge, namely Article 340 of the Criminal Code.

b) The child's motives and background

This is seen whether the child commits violence in self-defense, due to peer pressure, the child feels resentment towards the victim, the child is a victim of previous violence, or the child does not know that his actions are against the law. Complex motives and backgrounds or the presence of external factors often mitigate the child's moral and legal responsibility. In case number 1/Pid.Sus-Anak/2024/PN Grt, it was discovered that Anak Akbar Rozak alias Akbar Bin Rahmat committed a crime against the victim with the intention of avenging his anger at the victim who repeatedly smashed Anak Akbar Rozak alias Akbar Bin Rahmat's face. Because the victim invited Akbar Rozak's son, alias Akbar Bin Rahmat, and the witness's son, Saeful, to swim in the Cimanuk River, Akbar Rozak's son, alias Akbar Bin Rahmat, thought about taking revenge on the victim;

c) Level of child participation in violent crimes

This is seen whether the child is the main perpetrator or only helps to do it. In case number 1/Pid.Sus-Anak/2024/PN Grt it is known that Akbar Rozak alias Akbar Bin Rahmat's child committed the crime alone.

4. Child's attitude at trial

The child's attitude in court can be seen from the statement given by the child when giving the defendant's (child) statement before the Judge/Panel of Judges, whether in the form of an admission of the mistake he/she made, a feeling of regret and an apology by the child to the victim and/or the victim's family, as well as the child's willingness to participate in counseling or rehabilitation. However, the facts in the trial showed that Akbar Rozak's son, alias Akbar Bin Rahmat, was not honest in court by denying the statements of the witnesses presented at the trial and also stated that he was questioned under pressure by police investigators.

5. Recommendation from the Correctional Center

This recommendation is based on a report prepared by the Garut Correctional Center by assessing the family, psychological, social and rehabilitation potential of the child perpetrator of the crime. The Community Observer Team of the Garut Correctional Center conveyed its opinion to the Panel of Judges on Monday, October 16, 2023, that if the client is proven guilty in this case, then in the best interests of the child, the client can be sentenced to imprisonment at the Class I Bandung Special Children's Development Institution located at Jalan Pacuan Kuda No. 3, Sukamiskin Village, Arcamanik District, Bandung City, West Java Province.

6. Consideration of the type of sanctions for children

The types of sanctions for children in the Child Criminal Justice System Law can be in the form of criminal sanctions or action sanctions. Criminal sanctions for children consist of principal penalties and additional penalties. Considerations for imposing sanctions on children themselves are of course adjusted to the provisions that have been regulated and stated in the Child Criminal Justice System Law, for example, children under the age of 14 years can only be subject to action. Thus, children who are not yet 14 years old cannot be punished based on the provisions of the SPPA Law.

In case number 1/Pid.Sus-Anak/2024/PN Grt, it is known that Akbar Rozak alias Akbar Bin Rahmat was born on April 12, 2011 and was only 13 years old when he committed the crime but was already 14 years old when the verdict was read. The panel of judges imposed sanctions in the form of measures, namely 1 year of treatment at the Griya Bina Karsa Social Service Center - West Java Provincial Social Service in Cileungsi Bogor and 2 months of job training. In this case, the Panel of Judges did not mention the reason for imposing a job training sentence on Akbar Rozak alias Akbar Bin Rahmat's child because it was not included in the Panel of Judges' legal considerations.

7. The principle of restorative justice

If possible, peaceful efforts can be made between the child perpetrator of the crime and the victim, with a high priority being given to resolving this through penal mediation. The Child Criminal Justice System Law itself regulates restorative justice and diversion, which are intended to prevent and distance children who commit crimes from the judicial process so as to avoid negative stigmatization of these children. According to the General Section of the Explanation of the Child Criminal Justice System Law, restorative justice is a diversion process, namely all parties involved in a particular crime together solve the problem and create an obligation to make things better by seeing the victim, child, and community in finding solutions to improve, reconcile, and calm the heart that is not based on revenge.

In case number 1/Pid.Sus-Anak/2024/PN Grt, the case involving Anak Akbar Rozak alias Akbar Bin Rahmat cannot be resolved using diversion and restorative justice efforts. The reason diversion cannot be carried out is because of the provisions of Article 7 Paragraph (2) of the Child Criminal Justice System Law, which states that diversion is carried out if the crime committed is punishable by imprisonment of less than 7 years and is not a repeat of the crime. Thus, the crime committed by Akbar Rozak alias Akbar Bin Rahmat's son is not included in the category that can be diverted because the criminal threat is more than 7 years. Apart from that, the reason why cases cannot be resolved through restorative justice mechanisms is due to Article 6 Paragraph (1) of Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. The Supreme Court Regulation clearly explains that the types of criminal acts that can and may be resolved using restorative justice mechanisms are as follows:

- a. The crime committed is a minor crime or the victim's loss is worth no more than IDR 2,500,000.00 or no more than the local provincial minimum wage.
- b. The crime is a complaint offense.
- c. Criminal acts with a maximum penalty of 5 years imprisonment in one of the charges, including criminal acts of jinayat according to qanun.
- d. Criminal acts involving child perpetrators for which diversion is unsuccessful, or
- e. Traffic crimes in the form of crimes.

From the types of criminal acts described above, then by looking at the criminal acts committed by Anak Akbar Rozak alias Akbar Bin Rahmat against the victim, it is not included in the category of types of criminal acts that can be resolved through the restorative justice mechanism because the criminal threat from the criminal acts committed by Anak Akbar Rozak alias Akbar Bin Rahmat is more than 5 years in prison.

**2. Conformity of the Application of the Law by the Panel of Judges in the Decision of Case Number 1/Pid.Sus-Anak/2024/PN Grt**

In the Garut District Court Decision Number 1/Pid.Sus-Anak/2024/PN Grt, the Panel of Judges stated that Anak Akbar Rozak alias Akbar Bin Rahmat was legally and convincingly proven guilty of committing the crime of

violence against children resulting in death as stated in the second alternative charge. Furthermore, the Panel of Judges imposed sanctions in the form of sanctions in the form of action against Akbar Rozak alias Akbar Bin Rahmat's child in the form of treatment for 1 year at the Griya Karsa Social Service Center - West Java Provincial Social Service in Cileungsi and carrying out job training for 2 months. Action sanctions are a type of sanction in criminal law that aims to improve, develop or rehabilitate the perpetrator, in this case the child as the perpetrator of the crime, not intended to punish in the form of retaliation (such as imprisonment). In the context of the Juvenile Criminal Justice System Law, sanctions are given to children who commit crimes and are non-penal in nature, with a focus on the best interests of the child. The purpose of the existence of sanctions in the form of actions is actually to guide and improve the behavior of children who commit crimes, provide protection and rehabilitation, return children to a healthy social environment, and prevent children from being sentenced to prison.

In the decision decided by the Panel of Judges in case Number 1/Pid.Sus-Anak/2024/PN Grt, it was discovered that Anak Akbar Rozak alias Akbar Bin Rahmat was given a sanction in the form of treatment for 1 year at the Griya Karsa Social Service Center-West Java Provincial Social Service in Cileungsi and undertaking job training for 2 months. The action sanction in the form of treatment for 1 year at the Griya Karsa Social Services Center - West Java Provincial Social Services in Cileungsi is included in the category of action sanctions regulated in Article 82 Paragraph (1) letter d of the Child Criminal Justice System Law, namely treatment at a Social Welfare Institution, where this type of sanction can only be imposed for a maximum of 1 year. The act of caring for children according to the provisions of Article 83 Paragraph (2) of the Child Criminal Justice System Law has the aim of assisting the child's parents or guardians in educating and providing guidance to children who are perpetrators of the crime. Furthermore, regarding the imposition of another type of sanction on Anak Rozak alias Akbar Bin Rahmat, namely 2 months of job training. Job training itself is one of the main types of punishment for children. Provisions regarding criminal work training are usually implemented because in material law there is a cumulative criminal threat in the form of imprisonment and fines. However, because children cannot be subject to a fine, the fine was ultimately replaced with work training in accordance with the provisions of Article 71 Paragraph (3) of the Child Criminal Justice System Law.

The sanctions imposed on Akbar Rozak alias Akbar Bin Rahmat's child in the form of a 1-year treatment sanction at the Griya Karsa Social Service Center-West Java Provincial Social Service in Cileungsi and carrying out 2 months of job training actually have a strong basis in the rehabilitative approach and the objectives of juvenile criminal justice. However, its suitability is questionable in several aspects, namely that the legal considerations of the Panel of Judges' decision do not explain the reasons why the Panel of Judges imposed 2 months of job training. In its decision, the Panel of Judges only considered the imposition of sanctions against Akbar Rozak alias Akbar Bin Rahmat's son. In fact, according to the provisions of Article 71 of the Child Criminal Justice System Law, job training is included as one of the main types of punishment for children. In addition, the training sentence imposed was for 2 months. Meanwhile, in the provisions of Article 78 Paragraph (2) of the Child Criminal Justice System Law, it is stated that job training is required for a minimum of 3 months and a maximum of 1 year. Criminal work training is usually given because there is a threat of criminal fines, which in the SPPA Law is replaced with job training. However, there are no specific rules regarding whether the fine or job training will be given to children under 14 years of age.

If we refer back to the Child Criminal Justice System Law, then Akbar Rozak alias Akbar Bin Rahmat should only be subject to sanctions in the form of sanctions in accordance with the provisions in Article 69 Paragraph (2) of the Child Criminal Justice System Law which states that "children who are under 14 years of age can only be subject to sanctions". The context of "children under 14 years of age" here creates confusion for law enforcement officers, especially the Panel of Judges handling this case. This is because the article does not state whether the provisions of Article 69 Paragraph (2) of the Child Criminal Justice System Law only apply to children who are under 14 years of age at the time of committing the crime and/or at the time of the trial/decision. This provision is also exacerbated by the Explanation of Article 69 of the Child Criminal Justice System Law which only states "quite clearly" thus creating further confusion for Judges.

By imposing sanctions in the form of action as well as criminal sanctions for Akbar Rozak alias Akbar Bin Rahmat's child, who was only 13 years old when he committed the crime, there is certainly a discrepancy with the existing regulations in the Child Criminal Justice System Law carried out by the Panel of Judges. It can be said that the sanctions imposed by the Panel of Judges in this case did not create a sense of legal uncertainty for the child who committed the crime. The legal uncertainty here means that Article 69 Paragraph (2) of the Child Criminal Justice System Law clearly states and regulates that children under 14 years of age can only be subject to sanctions, but in reality, the Panel of Judges, apart from imposing sanctions in the form of treatment sanctions for 1 year at the Griya Karsa Social Services Center - West Java Provincial Social Services in Cileungsi, in fact the Panel of Judges also

imposed other sanctions by carrying out 2 months of work training for the child. Even though it is clear that job training itself is included in the category of criminal sanctions for children which can only be imposed if the child is 14 years old. This means that children for any reason may not be subject to any criminal penalties, including imprisonment, fines, job training, or other types of additional penalties. The principle of the best interests of the child and actions as a means of fostering children are interrelated. The sanctions are not a form of revenge for the child who committed the crime, but rather aim to protect, foster, rehabilitate, and prevent the child who committed the crime from entering the correctional system which will disrupt the development of thought patterns and damage the child's future. If he is given criminal sanctions, the child will brand or label himself as a criminal, naughty child, or someone who has failed in life. In relation to the matters above, the Panel of Judges in this case should still follow the provisions for imposing sanctions contained in the Child Criminal Justice System Law, namely imposing sanctions in the form of actions against Child Akbar Rozak alias Akbar Bin Rahmat, the types of actions of which are regulated in Article 82 Paragraph (1) of the Child Criminal Justice System Law.

However, the consideration of the Panel of Judges in finally imposing a criminal sanction of 2 months of job training on the child who committed the crime, can be done because there are provisions in the article that the child is charged with containing a type of criminal sanction that is cumulative, namely imprisonment and/or a fine. Thus, the Panel of Judges, guided by the provisions of Article 71 Paragraph (3) of the Child Criminal Justice System Law, then replaced the provisions on criminal fines with criminal work training because there was no substitute for criminal fines for children who committed crimes who were still under 14 years old. However, in fact, the Panel of Judges can still only impose sanctions in the form of action against the child who committed the crime because in the provisions of the article imposed on the child, namely Article 80 Paragraph (3) of Law Number 17 of 2016 in conjunction with Law Number 35 of 2014 in conjunction with Law Number 23 of 2002 concerning Child Protection, where the criminal sanctions are cumulative, there is a conjunction "and/or". The conjunction "and/or" can be treated as and, but can also be treated as or, and the italic sign contains the meaning of choice. So it can be interpreted that for people who violate the provisions of the article above, there are 2 possibilities, namely:

1. Shall be punished by imprisonment for a maximum of 15 years and a maximum fine of IDR 3,000,000,000.00.
2. Shall be punished by imprisonment for a maximum of 15 years or a maximum fine of IDR 3,000,000,000.00.

By looking at the meaning of the choices and connecting words above, it is very clear that in fact the Panel of Judges who tried and decided case number 1/Pid.Sus-Anak/2025/PN Mar can only give 1 type of sanction, namely action sanctions. However, on the other hand, regarding the imposition of criminal sanctions and additional sanctions by the Panel of Judges in case number 1/Pid.Sus-Anak/2024/PN Grt, it was done because on the one hand the Panel of Judges wanted to provide a sense of justice for the victim and the victim's family where the victim himself had died, but on the other hand the imposition of these sanctions can also create legal benefits that focus on the ultimate goal of the law by providing the greatest possible benefits or goodness for society.

In the context of children as criminals, the benefits of the law are certainly very relevant because the legal approach is not oriented towards revenge (retributive), but rather towards prevention, guidance and recovery so that in the future the child can hopefully be accepted back into society. In addition, it is hoped that the benefits of this law will also provide protection for children's rights and future, instill a sense of responsibility in children, and also prevent children from committing any criminal acts in the future. The main focus is to return the child to the social environment as a better person without killing his future. On the other hand, it is very important to provide legal certainty to children who commit crimes. In the juvenile criminal justice system, legal certainty is very important because children are a vulnerable group who need special protection. Legal certainty means that children know clearly how the legal process takes place, what rights they have, what the limits of the authority of law enforcement officers are, and what legal results or consequences the child will receive. This is essential to achieve the goals of the juvenile criminal justice system, namely rehabilitation and fostering children to live better lives in the future and not just revenge. Inappropriate sanctions given to children can hinder this goal and will certainly be detrimental to the child's future.

## Conclusion

The legal considerations of the Panel of Judges in imposing sanctions on children who are perpetrators of crimes are based on the principles of juvenile criminal law which are different from adult criminal law. The main focus of consideration is the best interests of the child, rehabilitation, and social reintegration. Several important elements in legal considerations by the Judge/Panel of Judges consist of considerations regarding the principle of child protection, the age and maturity factors of the child, the severity of the violent crime committed, the child's attitude in court, recommendations from the Correctional Center, consideration of the type of sanctions for the child, and the application of the principle of restorative justice. The Panel of Judges who imposed sanctions on Akbar Rozak



alias Akbar Bin Rahmat's child in the form of 1 year of treatment at the Griya Karsa Social Service Center - West Java Provincial Social Services in Cileungsi and carrying out 2 months of job training, it can be seen that in the legal considerations of the Panel of Judges' decision, the Panel of Judges did not explain the reasons for the Panel of Judges imposing 2 months of job training. Even though Akbar Rozak alias Akbar Bin Rahmat's child can only be subject to sanctions in the form of sanctions in the form of action because he is not yet 14 years old, which creates a sense of legal uncertainty, it can provide legal benefits for the child who committed the crime. In addition, job training is included as one of the main types of punishment for children which is imposed for a minimum of 3 months and a maximum of 1 year. So by giving sanctions in the form of actions and criminal sanctions to Akbar Rozak alias Akbar Bin Rahmat's child, there is a discrepancy with the existing regulations in the Child Criminal Justice System Law.

### **Suggestion**

1. The Supreme Court can routinely and periodically conduct education and training for child judges in the general court environment, especially in relation to the imposition of sanctions for children who are perpetrators of violent crimes resulting in death. In addition, the Supreme Court can also make regulations or circulars relating to the methods and procedures for imposing criminal sanctions and/or sanctions for children in the juvenile criminal justice system.
2. The President and the Indonesian House of Representatives as the legislators should revise Law Number 11 of 2012 concerning the Juvenile Criminal Justice System to re-regulate the provisions regarding the imposition of criminal sanctions and sanctions for children under 12 years of age, children under 14 years of age, children under 18 years of age who commit crimes, especially violent crimes. In addition, the Government, in this case the President, is also expected to revise Government Regulation Number 58 of 2022 concerning the Forms and Procedures for Implementing Criminal Sanctions and Actions against Children, which in the PP does not differentiate between the ages of children who can be subject to criminal sanctions or action sanctions.

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