



# LEGAL CERTAINTY ON COMBINED PROSECUTION OF THE CRIMINAL ACTION OF CORRUPTION WITH THE CRIME OF MONEY LAUNDERING

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<p><b>Received:</b> July 4<sup>th</sup> 2023 <b>Accepted:</b> August 4<sup>th</sup> 2023 <b>Published:</b> September 6<sup>th</sup> 2023</p>	<p>This study focuses on combining the prosecution of corruption which becomes a predicate crime in money laundering by using the theory of legal responsibility and the theory of legal certainty to answer the main problem formulated regarding the combination of prosecution of criminal acts of corruption with criminal acts of money laundering according to applicable law currently and the legal certainty of combining the prosecution of criminal acts of corruption with criminal acts of money laundering.</p> <p>The method used in this study is normative juridical research with a statutory and conceptual approach. The data used are secondary data sourced from primary legal materials that are authoritative and binding, secondary legal materials sourced from library materials and tertiary legal materials sourced from materials that provide an explanation of primary and tertiary legal materials by using library study techniques to be analyzed and presented in an analytical descriptive.</p> <p>From the results of the research it can be obtained that the combination of prosecution of criminal acts of corruption with criminal acts of money laundering according to the current law is based on the provisions of the Criminal Code (KUHP) which regulates the types of concurrent acts, namely concurrent laws and concurrent criminal acts as <i>concursum realis</i> which was then formulated in an indictment by the Public Prosecutor/Prosecutor according to his authority to carry out prosecutions based on the Criminal Procedure Code (KUHP) applied in the combined prosecution of corruption as a crime as a predicate crime in money laundering under the provisions which are regulated in the Law on Corruption and the Law on Money Laundering. The legal certainty of combining the prosecution of corruption and money laundering crimes reflects the clarity and consistency of legal regulations in the combined prosecution of corruption and money laundering cases based on the Criminal Code as the legal basis for combining cases classified as <i>concursum realis</i> applied in the prosecutor's/prosecutor's indictment General based on their authority regulated in the Criminal Procedure Code to be formulated in the indictment of the Public Prosecutor/Prosecutor as an independent crime and can be prosecuted or charged simultaneously.</p>

**Keywords:** Legal Certainty, Corruption, Money Laundering.

## INTRODUCTION

Act criminal corruption is part from law criminal especially those who have specification certain things are different from law criminal general like exists difference in provision law the event. Thereby case with follow criminal money laundering is one part from law criminal special (*ius singular, ius special, or bijzonder strafrecht*) of provision law positive (*ius constitutum*) Indonesia which if explained have specification certain things are different with law criminal general, like

deviation procedural law and regulated material intended push minimum Possible happening leakage as well as deviation to state finances and economy.

Based on Constitution Number 8 of 2010 regulates about follow criminal money laundering. Act Criminal Money Laundering is follow criminal advanced from follow criminal origin so that called as a follow-up crime. Although follow criminal money laundering is follow criminal advanced from follow criminal origin (predicate crime), will but to case follow criminal money



laundering possible done investigation , prosecution and examination court before legal proceedings to follow criminal origin finished . In case this , act criminal corruption as follow criminal origin .

Act criminal corruption arranged in Constitution Number 31 of 1999 as such changed become Constitution Number 20 of 2001. Based on Constitution the explained that follow criminal corruption covers a number of classification actions , including : actions enrich self Alone or anyone else who can harm state finances , misuse authority , opportunity , or positions available harm state finances, bribery civil servant or state officials, bribing judges, embezzlement in positions , and actions others are prohibited in Constitution eradication follow criminal corruption .

Eradication efforts follow criminal necessary and must is known moreover formerly cause and method For delete it , p this is also a must noticed in effort prevention and eradication follow criminal corruption . Inside eradication follow criminal corruption Still there is obstacle that is proof Because corruption is an invisible crime committed in a manner systematic and organized so the perpetrators tend each other cover One each other.

Act criminal corruption Then develop until produce more various modes complexity in form results follow criminal disguised , hidden corruption or cleaned Where state losses resulting from a deed corruption will become vague and difficult For returned to the country via mechanism follow criminal money laundering . Complexity follow criminal deep wash \_ follow criminal corruption Then make complicated enforcement process law to follow criminal money laundering .

Inside enforcement law to follow criminal corruption there is authority investigation and prosecution by the Commission Eradication Corruption (KPK) based Constitution Number 30 of 2002 concerning Commission Eradication Corruption However Constitution commission eradication corruption the No arrange the authority of the Corruption Eradication Commission in do investigation nor prosecution to follow criminal deep money laundering follow criminal corruption. If referring to the provisions governing law about follow criminal money laundering as mentioned in Article 74 of the Law Number 8 of 2010 states that investigator follow criminal money laundering is investigator follow criminal origin .

Reviewed from happening crime is No regardless from outside influences self perpetrator crime , for one that is development knowledge knowledge and technology are not only own good impact , will but also have bad impact Because can used by the perpetrator crime For disguise the proceeds crime , as well make money come from from crime the

become legitimate money . Masking process until stage make money from crime legitimate the done with method move , place nor grant originating assets and riches from crime , deep matter This follow criminal corruption to the other party with purpose so that the tool proof No can known and the perpetrator free from noose law . Actions carried out by the perpetrator This including as element follow criminal money laundering. this indicated that case follow criminal originating money laundering from follow criminal corruption the more complex Because perpetrator crime the originate from circles intellectual society tall , have or own power Good adequate social , political and economic strong , as well have very extensive network .

In case investigator find proof quite a start happening follow criminal money laundering and crime criminal corruption as follow criminal origin as arranged in Article 75 of the Law Act Criminal Money Laundering then investigator can combine investigation follow criminal corruption as follow criminal origin with investigation follow criminal money laundering and making it known to PPATK ( Reporting and Analysis Center Transaction Finance ) for track money and assets suspects , and coordinate with parties related to court to the consuming trial process time quite a long time because caused follow criminal corruption as follow criminal origin must proven moreover first . After the prosecutor is sure proven exists follow criminal corruption as follow criminal origin so Then proven follow criminal money laundering , and experts confronted by the Prosecutor in front the judge must explain in a manner detailed about Genre shrimp defendant from results follow criminal corruption the . this reflect exists merger prosecution by the Prosecutor as the authority he has For do merger case corruption and money laundering in order to obtain created justice is easy , fast and cost-effective light .

Act criminal corruption be one type in follow criminal alleged money laundering in Article 2 paragraph (1) of the Law Act Criminal Money Laundering so merger inspection perka follow criminal money laundering and acts criminal corruption can justified based on provision Article 75 of the Law Act Criminal Money Laundering . Merger case follow criminal corruption and crime criminal money laundering is wrong One the most frequent way carried out by the authorities enforcer law in effort enforcement law to follow criminal corruption followed \_ with follow criminal money laundering . Merger the is authority prosecutor general For determine is combine or separate prosecution to case the .

Merger case follow criminal corruption and crime criminal money laundering must notice there are two systems different evidence in follow criminal corruption and crime criminal money laundering . Act



criminal corruption put forward principle presumption No guilty so that prosecutor general own obligation law For prove exists error from perpetrator ( except For treasure Where perpetrator and prosecutor general You're welcome own obligation proof ), whereas follow criminal money laundering as stated in Article 60 juncto Article 77 juncto Article 78 of the Law Act Criminal Money Laundering adheres or put forward principle presumption guilty with application system reversal burden proof full so that actor who has obligation For prove treasure the No originate from follow criminal .

Merger case follow criminal corruption and acts criminal tend to be money laundering will blur system valid evidence in case , especially those related with treasure perpetrator follow crime and guilt perpetrator . Inside inspection case merger follow criminal corruption and money laundering will happen punishment only based on base perpetrator No can prove origin suggestion his treasure . based on Article 28 of the Law Act Criminal Corruption arrange reversal burden proof will but application system proof the only applies related with treasure wealth suspect or defendant However For his actions still subject to principle presumption guilty . Apart from that, the provisions chapter the No remove obligation evidence attached to the plaintiff general .

Inside merger case follow criminal corruption and acts criminal tend to be money laundering can give profit for defendant Because with merger the so prosecutor general must prove moreover formerly follow criminal corruption is becoming follow criminal origin . this \_ related with emptiness arrangement law related with if follow criminal corruption as follow criminal origin No proven is follow criminal money laundering as well immediately No proved . Prosecutor general must can prove exists connection between follow criminal corruption with follow criminal alleged money laundering to defendant . If prosecutor general No can prove exists connection the so follow criminal money laundering is No proven . this become something loss in enforcement law because inside Constitution Act Criminal Money Laundering is not require prosecutor general For prove follow criminal origin in follow criminal money laundering .

Provision Article 69 of the Law Act Criminal Money Laundering is not can applied in a manner absolute if There is merger case between follow criminal corruption as follow criminal origin with follow criminal due washing merger second case the create circumstances there are two systems valid evidence in inspection One matter .

For do investigation , prosecution and examination in case Act Criminal Fixed Money Laundering must preceded exists follow criminal origin , however follow criminal origin the No must proven

moreover first . Meaning the phrase " no must proven moreover first " no means No need proven The same once , however Act Criminal Money Laundering is not need long wait until case criminal origin disconnected or has obtain strength law stay .

Reviewed from a number of decision court related with merger case follow criminal money laundering and crime criminal corruption can is known from Decision Supreme Court Number 214 PK/ Pid.Sus /2014 with defendant Wa Ode Nurhayati. Panel of Judges of the Supreme Court at level Judicial Review opined that the money amounted to IDR 10 billion returned to Convict with based on evidence reversed by the convict Where He can prove the money No results from follow criminal but results business and business before become Member of the DPR RI Budget Body , while on the other hand , prosecutor general No can prove follow criminal origin from earning the money . In case This , the Panel of Judges limits object perka follow criminal money laundering only acquired wealth since defendant become as member of the DPR RI.

Reviewed from Decision Supreme Court Number 537 K/ Pid.Sus /2014 with Defendant Djoko Susilo. The Panel of Judges of the Supreme Court stated that defendant received Rp . 32 billion since 2010 to with 2012 will be but amount of money in follow criminal money laundering by the Defendant since 2010 to with 20212 is amounting to Rp. 42,956,516,000,- ( four twenty- two billion nine hundred and fifty six million five hundred and six mercy thousand rupiahs). On matters here , there is inspection case follow criminal money laundering Rp . 53,894,480,929 ( fifty three billion eight hundred and nine tens four million four hundred and eight tens thousand nine hundred and twenty nine rupiahs) obtained since 2003 to with in 2010. On the charges filed The Public Prosecutor does not mentioned about follow criminal origin related with follow criminal money laundering Rp . 53,894,480,929 ( fifty three billion eight hundred and nine tens four million four hundred and eight tens thousand nine hundred and twenty nine rupiah).

On Verdict Supreme Court Number 1104 K/ Pid.Sus /2017 with the defendant Diki Arianto rule out enforceability Article 69 of the Law Act Criminal Money Laundering . Inside case This , the Panel of Judges of the Supreme Court stated that it's legal sell buy share between Defendant with PT Radiant Nusa Investama (PT RNI), then No There is follow criminal embezzlement , fraud nor follow criminal money laundering so with No it's proven follow criminal origin so follow criminal additional washing immediately No proven . The Panel of Judges of the Supreme Court emphasized the verdict was proven or nope follow criminal origin in case the . With No it's proven follow criminal origin so as well as immediately follow criminal



washing that becomes No proven Because No There is originating wealth from crime.

Authenticity study This pay close attention from merger case follow criminal corruption and acts criminal inside money laundering its application Still there is emptiness law on difference system proof of action criminal corruption as follow criminal origin in follow criminal money laundering that has not solved become reason researcher For do study about certainty law for merger prosecution follow criminal corruption with follow criminal inside money laundering system Justice crime in Indonesia.

### **RESEARCH METHODS**

Study law basically is something activity scientific based on methods , systematics and thinking specific purpose For learn One or a number of symptom law certain with road analyze it , except That then it will also be held in -depth examination to fact law the For then that is generated within symptom relevant law .

Type of research used in thesis This is study law juridical normative . Study law juridical normative according to Ronald Dworkin it is called with term study doctrinal ( *doctrinal research* ), namely research that analyzes law written nor The law is decided by a judge through a court process . Type of research law normative used For analyze about certainty law merger prosecution follow criminal corruption with follow criminal washing seen from provision regulation governing legislation about follow criminal corruption and crime criminal money laundering in Indonesia

Approach study in thesis This use approach legislation and approaches conceptual. Approach regulation legislation is approach used regulation applicable law, meanwhile approach conceptual (conceptual approach) is approach used opinion expert law .

Inside study this , approach regulation legislation use provisions applicable law related with follow criminal corruption and crime criminal money laundering meanwhile approach use opinion expert law as theories and concepts that have relevance with problems that have formulated in thesis this .

### **DISCUSSION**

The combination of prosecution in cases of criminal acts of corruption with criminal acts of money laundering in the Supreme Court Decision Number 214 PK/Pid.Sus/2014 with the defendant Wa Ode Nurhayati can be seen from the indictment of the Public Prosecutor/Prosecutor for Corruption Eradication.

#### **FIRST**

The primary indictment charged against the defendant who received gifts or promises was to receive

cash totaling IDR 6,250,000,000.00 (six billion two hundred and fifty million rupiah) from Haris Andi Surahman originating from Fahd El Fouz amounting to IDR 5,500,000,000 .00 (five billion five hundred million rupiah), from Saul Paulus David Nelwan in the amount of Rp. 350,000,000.00 (three hundred and fifty million rupiah), and from Abram Noach Mambu in the amount of Rp. 400,000,000.00 (four hundred million rupiah), even though it is known or reasonably suspected that the gift or promise was given to motivate him to do or not do something in his position, which is contrary to his obligations, namely that the Defendant knew that the money was given because the Defendant as a Member of the DPR-RI Budget Committee has the authority to ensure that the Regency Aceh Besar, Pidie Jaya Regency, Bener Meriah Regency and Minahasa Regency as areas receiving the Regional Infrastructure Adjustment Fund (DPID) allocation for the 2011 Fiscal Year, which is contrary to the provisions of Article 5 number 4 of Law Number 28 of 1999 concerning Clean and State Administration. Free from Corruption, Collusion and Nepotism, Article 208 paragraph (3) of Law Number 27 of 2009 concerning the People's Consultative Assembly, People's Representative Council, Regional Representative Council and Regional People's Representative Council and Article 281 paragraph (3) of the DPR RI Decree Number: 01/DPR RI/I/2009-2010 dated 29 September 2009 concerning DPR-RI Rules and Regulations which stipulate "Members of the DPR are prohibited from committing corruption, collusion and nepotism, and are prohibited from accepting gratuities". The Defendant's actions are criminal acts as regulated and punishable by crime in Article 12 letter a 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 Corruption Crime Eradication.

The subsidiary indictment demands against the defendant who received a gift or promise in the form of cash totaling IDR 6,250,000,000.00 (six billion two hundred and fifty million rupiah) from Haris Andi Surahman originating from Fahd El Fouz amounting to IDR 5,500,000,000 .00 (five billion five hundred million rupiah), from Saul Paulus David Nelwan in the amount of Rp.350,000,000.00 (three hundred and fifty million rupiah) and from Abram Noach Mambu in the amount of Rp.400,000,000.00 (four hundred million rupiah) ), with the intention that the civil servant or state administrator does or does not do something in his position, which is contrary to his obligations, namely with the intention that the Defendant as a member of the Budget Committee of the DPR RI has the authority to ensure that Aceh Besar Regency, Pidie Jaya Regency, Bener Regency Meriah and Minahasa Regency as



recipient regions of the Regional Infrastructure Adjustment Fund (DPID) allocation for the 2011 Fiscal Year, which is contrary to the provisions of Article 5 point 4 of Law Number 28 of 1999 concerning State Administration that is Clean and Free from Corruption, Collusion and Nepotism, Article 208 paragraph (3) of Law Number 27 of 2009 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council and Article 281 paragraph (3) DPR RI Decree Number: 01/DPR RI/I/ 2009-2010 dated 29 September 2009 concerning the Rules of Procedure of the DPR-RI which stipulates "Members of the DPR are prohibited from engaging in corruption, collusion and nepotism, and are prohibited from receiving gratuities". The actions of the Defendant are criminal acts as stipulated and punishable by crime in Article 5 paragraph (2) jo. Article 5 paragraph (1) letter a 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 indictment is more subsidiary to the defendant who received a gift or promise, namely receiving cash totaling Rp. 6,250,000,000.00 (six billion two hundred and fifty million rupiah) from Haris Andi Surahman which came from Fahd El Fouz amounting to Rp. 5,500,000,000.00 (five billion five hundred million rupiah), from Saul Paulus David Nelwan Rp. 350,000,000.00 (three hundred and fifty million rupiah) and from Abram Noach Mambu Rp. 400,000,000.00 (four hundred million rupiah), even though it is known or reasonably suspected that the gift or promise was given because of power or authority related to his position, namely the Defendant knew that the money was given because the Defendant as a Member of the Budget Committee of the DPR RI has the authority to ensure that Aceh Besar District, Pidie Jaya District, Bener Meriah Regency and Minahasa Regency as areas receiving the Regional Infrastructure Adjustment Fund (DPID) allocation for Fiscal Year 2011 or according to the thoughts of the person giving the gift or promise is related to their position, namely according to the thoughts of Fahd El Fouz, Saul Paulus David Nelwan, Abram Noach Mambu, Haris Andi Surahman that the Defendant could exploit Aceh Besar District, Pidie Jaya District, Bener Meriah District and Minahasa District as recipient areas for Regional Infrastructure Adjustment Fund (DPID) allocations for the 2011 Fiscal Year. The Defendant's actions were a criminal offense as stipulated and punishable by law in Article 11 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.

## SECOND

The primary indictment charges against the defendant who committed several acts which must be seen as stand-alone acts so that they constitute several crimes, in the form of placing, transferring, diverting, spending, paying, granting, depositing, taking abroad, changing form, exchanging currency money or securities or other actions on assets, namely placing money several times in account number 102-00-0551613-0 in the name of the Defendant at Bank Mandiri KCP Jakarta DPR RI up to a total of Rp.50,595,979,593.77 (fifty billion five hundred ninety five million nine hundred seventy nine thousand five hundred and ninety three rupiah seventy seven cents) which then the Defendant transfers, diverts, spends, and pays the money in the account, which he knows or reasonably suspects is the proceeds of the crime referred to in Article 2 paragraph (1) with the aim of concealing or disguising the origin of the assets, namely the Defendant knew or should suspect that the money was the result of a criminal act of corruption received from Fahd El Fouz, Haris Andi Surahman, Saul Paulus David Nelwan, Abram Noach Mambu and other parties with the aim of concealing or disguising their origins. The actions of the Defendant are criminal acts as stipulated and punishable by law in Article 3 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes jo. Article 65 paragraph (1) of the Criminal Code.

Claims for subsidiary indictments against defendants who have committed several acts which must be seen as stand-alone acts so that they constitute several crimes, in the form of acts that hide or disguise the origin, source, location, designation, transfer of rights, or actual ownership of assets namely with the aim of concealing or disguising the origin of the money received by the Defendant from Fahd El Fouz, Haris Andi Surahman, Saul Paulus David Nelwan, Abram Noach Mambu and other parties up to a total of Rp. 50,595,979,593.77 (fifty billion five hundred and nine fifty five million nine hundred seventy nine thousand five hundred ninety three rupiah seventy seven cents) by placing several times in account number 102-00-0551613-0 in the name of the Defendant at Bank Mandiri KCP Jakarta DPR RI, which he knows or reasonably suspects is the result of a crime as referred to in Article 2 paragraph (1), namely the Defendant knew or should have suspected that the money was the result of a criminal act of corruption committed by the Defendant. The actions of the Defendant are criminal acts as stipulated and punishable by law in Article 4 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes jo. Article 65



paragraph (1) of the Criminal Code.

In the Judicial Review Decision it is stated that the Applicant for Judicial Review/the convict has been legally and convincingly proven guilty of committing a crime violating Article 12 letter a of Law No. 31 of 1999 was amended by Law No.20 of 2001 and article 3 of Law No.8 of 2010 Jo. Article 65 paragraph (1) of the Criminal Code. However, as long as the decision stated that evidence No. 296 in the form of money in the amount of Rp. 10,000,000,000.- (ten billion rupiah) was confiscated for the State, the Judicial Review Panel did not agree with this.

Based on the facts of the trial, the Defendant had received a commitment fee from Br. FAHD EL FAUS of IDR 6,000,000,000 (six billion rupiah) through Ms. SEFA YOLANDA for managing the Regional Budget of Aceh Besar, Bener Meriah and Pidie Jaya. The defendant also received a commitment fee and DPID (Regional Infrastructure Acceleration Fund) allocation of Rp. 750,000,000 (seven hundred and fifty million rupiah) through SEFA YOLANDA from a person named PAUL, for the management of the Regional Infrastructure Acceleration Fund in the Health Sector. After being repeatedly billed, the convict finally returned the funds to those who were entitled, namely to FAHD EL FAUS in the amount of IDR 5,500,000,000 (five billion five hundred million rupiah) and to Paul and Abraham Noach in the amount of IDR 750,000,000 (seven hundred and fifty million rupiahs), so that the total amount of money received by the Defendant was IDR 6,750,000,000 (six billion seven hundred and fifty million rupiahs), although according to the Defendant he only received IDR 2,250,000,000 (two billion two hundred and fifty million rupiah). The money received by the Defendant through SEFA was placed in the Defendant's account or SEFA's account as a shelter, and the Defendant knew that the money he received was in connection with his work, position or position as a member of the DPR RI's Budget Agency to do or not do something in his position, which was contrary to his obligations.

Based on these facts, it shows that the proceeds of the criminal act of corruption (bribery) are regulated in Article 12 letter a of the Corruption Crime Law as a predicate crime, main crime or predicate crime (vide article 2 paragraph (1) of the Laundering Crime Law Money) which the Convict/Petitioner for Judicial Review is legally obliged to account for is IDR 6,750,000,000 (six billion seven hundred and fifty million rupiah).

In accordance with the legal facts at the trial, the other money amounting to IDR 10,000,000 (ten billion rupiah) was not revealed at the trial that the money came from the a quo criminal act of corruption (bribery). That it was also not revealed that the Rp.

10,000,000,000 (ten billion rupiah) came from the principal crime, predicate crime, embezzlement, fraud, corruption, taxation, narcotics and so on, as stated in article 2 paragraph (1) Money Laundering Crime Law, and the Public Prosecutor or Judex facti are unable to prove the predicate crime, the principal crime (predicate crime) of Rp. 10,000,000,000 (ten billion rupiah) which is deposited in a bank account / deposit belonging to the convict / Applicant for Judicial Review.

Since the money amounting to IDR 10,000,000,000 (ten billion rupiah) cannot be proven to be the predicate crime, the main crime (predicate crime), and conversely the convict/applicant for judicial review can prove otherwise that the money is IDR 10,000,000,000, - (ten billion rupiah) is not the proceeds of criminal acts/crimes, but rather the proceeds of business and enterprise before the Convict/Review Petitioner became a member of the DPR-RI Budget Body. To strengthen or prove that the convict already had a business before becoming a member of the DPR RI Budget Committee, several witnesses explained at the trial, including: witness Sarif, Br. Fauzi, Marjono, Lahisai, Laode Kaana, Ruslan, Laode Klamu, Laode Basira; which basically explains that before becoming a member of the DPR RI, the Convict/Petitioner for Judicial Review worked as a businessman engaged in the procurement of teaching aids for schools in Wakatobi and Palangkaraya, procurement of computers for schools and offices, main distributor of building materials in North Buton Regency, selling buying cell phones, a family business in the form of a convection shop in Merauke Regency and a clove plantation in Seram, Maluku and the business carried out by the Convict/Applicant for Judicial Review was inherited from his parents. To show that it is true that the Convict did business worth billions of rupiah, the Judicial Review Petitioner was used to making large cash transactions, in fact from around October to December 2008 the Judicial Review Petitioner's financial transactions (cash deposits) to Bank Danamon Jakarta reached IDR 11,000,000,000,- (eleven billion rupiah). Based on these reasons, it is also consistent with the reasons for the judicial review of the convict/judicial review applicant which explains the origin of the money amounting to Rp. 10,000,000,000,- (ten billion rupiah), that the money deposited belongs to the Applicant for Judicial Review amounting to Rp. 10,000,000,000,- (ten billion rupiah) was taken from the Mandiri Prioritas account belonging to the Petitioner for Judicial Review, then the amount of Rp. 9,000,000,000 (nine billion rupiah) was placed back into the same Mandiri Prioritas account, so that it appears as if the money was the proceeds of a crime that entered the account Applicant for Judicial Review, even though the Petitioner for Judicial Review only made a mutation or transfer of



books.

Indonesian criminal procedural law is regulated in Constitution Number 8 of 1981 concerning the so-called Criminal Procedure Code as the Criminal Procedure Code. Article 1 point (7) of the Criminal Procedure Code defines Prosecution as stages prosecutor general in bestow case to court For please examined and decided by a competent court . Basically \_ draft prosecution by the plaintiff general is extract from draft differentiation functional in criminal procedural law in Indonesia.

Provision regulated law in the Criminal Code determine there are two types together deed that is together legislation and concurrent follow criminal . Legal institutions together aim For apply limitation to buildup maximum criminal , even here only criminal the principal that is taken into account . Merger case follow criminal corruption and acts criminal Money laundering is a type of *concurus realis* arranged in Article 65 of the Criminal Code can interpreted the conjunction ( combination ) of several necessary actions seen as standing act themselves and each of their actions That has fulfil formulation follow prescribed punishment in Constitution Criminal .

Merger prosecution follow criminal corruption with follow criminal money laundering is contained in Article Article 141 of the Criminal Procedure Code (KUHAP) which explains about authority Public Prosecutor for merge two files matter . Provisions sound Article 141 of the Criminal Procedure Code as explained by Soesilo , as following .

Prosecutor general can do merger thing and make it in One letter indictment , if at the same time or almost at the same time , he accept a number of file case in thing :

- 1) Several follow crime committed by a person of the same interest inspection No make obstacle to the merger .
- 2) Some follow the crime involved One with others.
- 3) Some follow criminal offense that is not related One with others, it will but one with that other one There is The relationship is deep matter This merger the need for interest inspection .

Inside enforcement law to Act Criminal Where is money laundering ? follow criminal origin No need proven moreover first by someone decision powerful court law stay . In case This prosecution Of course Can done without need find follow criminal origin . In practice enforcement law to Act Criminal Money Laundering proceeds follow criminal corruption , letter indictment follow criminal corruption and crime Criminal Money Laundering combined as matter the possible based on Article 141 of the Criminal Procedure Code .

During the prosecution process there is

authority attorney For do prosecution on case follow criminal money laundering and crime criminal origin originating from delegation file case by investigators in accordance with authority attorney as arranged inside regulation legislation , as well authority KPK Public Prosecutor for do prosecution on case follow criminal money laundering and crime criminal origin originating from delegation file case by Corruption Eradication Committee investigators accordingly with the authority of the Corruption Eradication Commission as follows arranged inside regulation legislation . In case prosecution so merger investigation Act Criminal Corruption as follow criminal origin with Act Criminal Money Laundering is a must synergized with Prosecution , considering essence and urgency in merger the For smoothness based examination principle court simple , fast and cost cheap .

Application merger case follow criminal corruption and crime pdiana money laundering is based on provisions Article 75 of the Law Number 8 of 2010 concerning Act Criminal Regulating Money Laundering merger case follow criminal money laundering with follow criminal origin , if investigator find proof enough start . One type follow criminal origin in follow criminal money laundering as arranged in Article 2 paragraph (1) of the Law Number 8 of 2010 concerning Act Criminal Money Laundering is follow criminal corruption , so merger inspection case follow criminal money laundering and crime criminal corruption can justified based on provision Article 75 of the Law Number 8 of 2010 concerning Act Criminal Money Laundering .

Must merger the indictment also appears in the provisions Article 74 and Article 75 of the Law Number 8 of 2010 concerning Prevention and Eradication Act Criminal Money Laundering . From the provisions chapter the show follow criminal corruption is one from type follow criminal related origins with follow criminal money laundering . Act Criminal origin (predicate crime) is follow crime that triggers ( source ) occurrence follow criminal money laundering .

Merger case follow criminal corruption and acts criminal money laundering must consider two systems different proof in follow criminal corruption and acts criminal money laundering . Act criminal corruption put forward principle presumption No guilty so that prosecutor general own obligation law For prove exists error from perpetrator ( except For treasure Where perpetrator and prosecutor general You're welcome own obligation proof ), whereas follow criminal money laundering as intended in Article 69 jo. Article 77 jo. Article 78 Article 75 of the Law Number 8 of 2010 concerning Act Criminal Money Laundering adheres to or put forward principle presumption guilty with application system reversal burden proof full so that the perpetrator has obligation For prove treasure the No



originate from follow criminal .

Regulated conditions in Article 69 of the Law Number 8 of 2010 concerning Act Criminal Money Laundering is not can applied in a manner absolute if There is merger case between follow criminal origin with follow criminal money laundering . Merger case follow criminal origin with follow criminal money laundering creates circumstances there are two systems valid evidence in inspection One matter .

Based on provision Constitution Number 31 of 1999 jo. Constitution Number 20 of 2001 concerning Eradication Act Criminal Corruption arrange reversal burden proof as intended in Article 28 of the Law Number 31 of 1999 jo. Constitution Number 20 of 2001 concerning Eradication Act Criminal Corruption will but application system proof the only applies related with treasure riches suspect or defendant However For his actions still subject to principle presumption guilty . In addition , Article 28 of Law Number 31 of 1999 jo. Constitution Number 20 of 2001 concerning Eradication Act Criminal Corruption No remove obligation evidence attached to the plaintiff general .

Merger case in examination in court based on indictment submitted by the prosecutor general to defendant . Merger cases carried out by investigators No tie for prosecutor general Because prosecutor general own authority Alone For determine is do merger or separation prosecution as intended in the Criminal Procedure Code . Indictment letter is loading letter \_ formulation follow the crime charged to the defendant was concluded and withdrawn from results inspection investigation and is base or base for internal judges advance inspection \_ the judge

Formula prosecutor 's indictment the general accused defendant with follow criminal corruption and crime criminal where to launder money ? second follow criminal the is an independent crime as well can done prosecution or indicted in a manner simultaneously Already should letter the accusation in a manner more Specific can dmentioned letter indictment cumulation in concursus realis. The charges outlined by the Public Prosecutor are inclined concurrent punishment \_ the main thing is kind so with thereby Already appropriately If prosecution If proven second follow criminal the so Already appropriately dropping punishment .

## **RESULTS**

Study This discuss merger prosecution in case follow criminal corruption and acts criminal based money laundering Decision Supreme Court Number 214 PK/ Pid.Sus /2014 which involves defendant Wa Ode Nurhayati. Analysis done to indictment of the Prosecutor/ Public Prosecutor for Eradication Act Corruption in decision the .

In demands First , the accused accused accept

present or promise some money from a number of party with objective move action or impartiality in his position as member of the DPR-RI Budget Agency . This action violate provision prohibiting law corruption , collusion and nepotism .

In demands secondly , the defendant is also charged receive money with Meaning influence civil servant or state officials to act in accordance desire . This is also a violation governing law prohibition accept gratification by members of the DPR.

Decision state that defendant guilty on action corruption and money laundering . Money received by the defendant considered results follow criminal later corruption washed through a number transaction to bank account . Although defendant claim that such money originate from business and business before become DPR-RI members , however decision state that such money is results follow criminal .

Merger prosecution in case This based on Article 141 of the Criminal Procedure Code (KUHP) which provides authority to prosecutor general For combine file thing that has connection or linkage . Article 75 of the Law Number 8 of 2010 concerning Prevention and Eradication Act Criminal Money Laundering is also possible merger case follow criminal corruption with money laundering if investigator find proof enough start .

However , it is necessary noticed that in merger case this , there is difference in system proof . In action criminal corruption , principle presumption No guilty applies , where the claimant general must prove error defendant . However , in follow criminal money laundering , principle presumption guilty applied with transfer burden proof to defendant For prove origin suspected property .

In conclusion , research This discuss merger prosecution in case follow criminal corruption and acts criminal money laundering involved defendant Wa Ode Nurhayati. Decision The Supreme Court affirmed exists action corruption and money laundering case this , with consider various governing laws and regulations about corruption , money laundering , as well merger prosecution .

In merging prosecution follow criminal corruption with follow criminal money laundering exists type not quite enough answer law proposed by Hans Kelsen. Not quite enough answer This involve accountability individual , accountability on mistakes , and accountability absolute defendant . Merger prosecution This confirm not quite enough answer law defendant on violating act provision law criminal , incl violation follow criminal corruption and crime criminal money laundering .

In context this , it is certainty law in merger





prosecution become important, in line with view of Jan Michael Otto. Clarity and consistency regulation law become base For merger prosecution follow criminal corruption with follow criminal money laundering. Article 65 of the Criminal Code becomes base law For merger things that fall under the category of "concursum realis," ie standing deeds \_ myself and have fulfil formulation follow regulated criminal law in Constitution Criminal.

Application merger prosecution This refers to the rules governing legislation \_ follow criminal corruption and money laundering, as well outlined in the indictment of the Public Prosecutor/ Prosecutor as independent crime. Approach This possible prosecution or indictment in a manner simultaneously to second follow punishment, as appropriate with the concept of "concursum realist." suitability indictment This with Basith's view is that If proven defendant guilty in second follow criminal that, then dropping punishment for both of them is right step.

## CONCLUSION

Based on results analysis and discussion in study thesis This can concluded that merger prosecution follow criminal corruption with follow criminal money laundering according to applicable law moment This based on the provisions of the Criminal Code ( KUHP) which regulate about type together deed that is together legislation and concurrent follow criminal as a later realist concursum formulated in letter indictment by the Prosecutor/ Public Prosecutor accordingly authority For do prosecution based on the Criminal Procedure Code ( KUHP ) applied in merger prosecution follow criminal corruption follow criminal as follow criminal origin in follow criminal based money laundering regulated provisions in Constitution Act Criminal Corruption and Law Act Criminal Money Laundering.

Certainty law merger prosecution follow criminal corruption with follow criminal money laundering reflects exists clarity and consistency regulation law in merger prosecution case follow criminal corruption with follow criminal money laundering is based on Article 65 of the Criminal Code as base law merger matters classified as concursum realis are interpreted as together a number of necessary actions seen as standing action themselves and each of their actions That has fulfil formulation follow regulated criminal law in Constitution The punishment applied in the Prosecutor's/ Public Prosecutor's indictment is based on regulated authority in Article 141 of the Criminal Procedure Code for formulated in the indictment of the Public Prosecutor/ Prosecutor as an independent crime as well can done prosecution or indicted in a manner simultaneously Already should

letter the indictment in a manner more Specific can called letter indictment cumulation in the concursum realist.

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