

Implementation of Court Decisions in Criminal Cases

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Abstract—The executor of the court decision or judge's verdict is the prosecutor as the executor. As the executor of the prosecutor sends a copy of the minutes of the implementation of the court decision signed by him, to the prison, the convict, also by the supervisory judge and observer and the court that decides the case at the first level, the clerk also records it into the supervisory register and observations are carried out, closed and signed by the clerk every working day is also signed by the supervising judge and observer. This paper is conducted with the aim of knowing and understanding the implementation of court decisions in criminal cases. The method used is normative research with the type of approach using the method of literature and the method of comparison. The results and analysis show that the court's decision on a criminal case that has a legal force is still carried out by the Prosecutor based on the type of crime decided by the judge. Here if there is a change in the status of the defendant is a person who is issued, examined and tried in a court of law becomes a convicted person namely a person who is convicted based on a court decision that has obtained a permanent legal force who received guidance in a Correctional Institution.

Keywords: *implementation, court decision, criminal case*

I. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia in Article 1 paragraph (3) clearly states that the State of Indonesia is a state of law. Therefore, the state must not carry out its activities on the basis of their authority but must be based on law. This means that Indonesia is a democratic rule of law based on the Pancasila and the 1945 Constitution of the Republic of Indonesia, upholding human rights and equality in law and government.

One of the characteristics of Indonesia's rule of law is the distribution of power, among others: executive, legislative, and judiciary. Judicial power (adjudicate) is exercised in a criminal justice system which is divided into several sub-systems, namely: the Police, Prosecutors' Court, and Correctional Institutions. Judging from the division of the sub-system, the court is always identified with the judge, who is tasked with overseeing the proceedings of the trial.

Judges are state court officials who have the authority to examine and try all cases whose jurisdiction covers their jurisdiction (absolute competence). [1] In examining and adjudicating a case, the judge must pay attention to the

values that develop in society. In this case, the judge as an independent judicial official is expected to provide justice to all parties. Examining and adjudicating a case is the main task of the judge, all of which are governed by law.

In Article 16 paragraph (1) of Law Number 4 of 2004 concerning Judicial Power, it is determined that the court may not refuse to examine, try, decide in a case with any arguments that the law does not exist or is unclear, the judge, in this case, must not refuse to examine and try all cases submitted to him.

The court's decision as regulated in KUHAP Article 1 point 11 is: "the judge's statement which is pronounced in an open court hearing, which can be in the form of conviction or be free or free from all lawsuits in terms of and in the manner stipulated in this law".

The forms of judicial decisions in criminal cases are: [2]

- 1) *Acquittal (vrijspraak).*
- 2) *The decision of release for lawsuits (onstlag van alle Rechtsvervolging).*
- 3) *Criminalization (veroordeling).*

As the executor of a court decision or judge's verdict is a prosecutor as executor of Article 1 point 6a of the Criminal Procedure Code, the prosecutor is an authorized authority by the Law to act as a public prosecutor and carry out court decisions that have obtained permanent legal force.[3] As the executor of the prosecutor sends a copy of the minutes of the implementation of the court decision signed by him, to the prison, the convict, also by the supervisory judge and observer and the court that decides the case at the first level, the clerk also records it into the supervisory register and observations are carried out, closed and signed by the clerk every working day is also signed by the supervisory judge and the observer as regulated in Article 278 of the Criminal Procedure Code.

The implementation of supervision of court decisions in criminal cases carried out by supervisory judges and observers is useful for research and evaluation materials on the efficiency of criminal convictions and inmates' training. The results of the evaluation are reported to the chair of the District Court. Guidance and guidance for inmates undergoing a criminal offense in a Penitentiary (LAPAS) or

State Detention Center (RUTAN) can be carried out according to the authority (competency) of each relevant agency.

II. RESEARCH METHODS

This study uses the Normative research method, with a legal approach. [4] To collect material the author uses the following methods: a.) Method of Library (Library Research) [5][6], namely a method used by studying literature books, legislation, court rulings and jurisprudence, other materials in magazines and newspapers, which relates to the subject matter which is then used to support the discussion. b) Comparative Research Method[7], that is, a method used by making comparisons of the problems discussed, then taken to support this discussion, for example, comparisons between the opinions of criminal law experts. The materials that can be collected are then analyzed qualitatively, where the results are arranged in the form of scientific work.

III. RESULT AND DISCUSSION

A. Forms of Court Decisions in Criminal Cases

The forms of decisions in court in criminal cases are:[8]

1. Criminal punishment or criminal conduct and/or code of conduct.
2. Acquittal.
3. The verdict is free from all lawsuits.

A decision regarding a public prosecutor's claim cannot be accepted, if it is related to an act that is alleged there is no legal reason to prosecute, for example in the case of complaint offenses there is no letter of complaint attached to the former case, or the complaint is retracted or offense has passed the time (*verjaard*), or the reason is known *bus idem*.

A judicial process ends with a final verdict (verdict). In that decision, the judge stated his opinion about what had been considered and the decision.

KUHAP [9] Indonesia provides the following definition of a verdict, the court's verdict is: the judge's statement made in an open court hearing, which can be conviction or free, or free from all legal claims in terms of and according to the method set in this law. "(Article 1 Item 11 of the Criminal Procedure Code).

About when a conviction is handed down, it is answered by Article 193 paragraph (1) of the Criminal Procedure Code as follows: "If the court is of the opinion that the defendant is guilty of committing the criminal act charged with him, the court convicts the criminal ". The convicting verdict is handed down by the judge if he has obtained the conviction that the defendant has committed the indicted act and he considers that the deed and the defendant can be convicted. [8]

Furthermore, the verdict is acquitted "if the court is of the opinion that from the results of the hearing in the hearing, the defendant's guilt for the actions allegedly against him is not legally proven and convincing, then the defendant is acquitted." what the defendant did or did not at least convict did. [8]

Furthermore, the verdict is released from all lawsuits according to the Criminal Procedure Code "if the court is of

the opinion that the act convicted of the defendant is proven, but the act does not constitute a criminal offense, then the defendant is acquitted of all legal claims. "(Article 191 paragraph (2) of the Criminal Procedure Code). In fact, if the act is charged with the defendant is not a crime, then from the beginning the judge should not have accepted the prosecutor's demands.

B. Court Verdict Against Criminal Case

Article 270 of the Criminal Procedure Code stipulates that the implementation of a court decision which has legal force is still carried out by a prosecutor, for which the clerk sends a copy of the decision letter to him. In line with the provisions of the Criminal Procedure Code, it is also explained in Article 36 of Law Number 4 of 2004 concerning Judicial Power that the implementation of court decisions in criminal cases is carried out by prosecutors.

H. Rusli Muhammad said: "Paying attention to the provisions of Article 270 of the Criminal Procedure Code it can be said that the official who was authorized to carry out the court's decision was a prosecutor. Thus, it is on the shoulders of the authorities. . responsible for carrying out court decisions".[10] Therefore, in carrying out the court's decision a prosecutor must know and understand the procedures for implementing the court's decision. In order to expedite the implementation of the court's decision, the Attorney General's Office of the Republic of Indonesia issued technical or administrative guidelines in handling the execution of court decisions that have permanent legal force with Letter Number B-235 / E / 3/1994 dated March 4, 1994 concerning Execution of Court Decisions and Attorney General Decrees Republic of Indonesia Number KEP-518 / A / JA / 11/2001 dated November 11, 2001 concerning Amendment to the Republic of Indonesia KEP-132 / JA / 11/1994 dated November 7, 1994 concerning Administration of Public Crimes Cases.

Based on Article 270 of the Criminal Code, the Prosecutor carries out a ruling court that has obtained permanent legal force and to implement the ruling the clerk sends the ruling letter to him (the prosecutor concerned). Furthermore, according to Article 197 paragraph (3), the decision is carried out immediately according to the provisions in this law (KUHAP). While according to Article 14 the letter j the determination of the judge is carried out by the public prosecutor.

In the chapters above the differences between the definition of a prosecutor and the public prosecutor have been explained, including the designation of a prosecutor, the emphasis on the institution or position, while the public prosecutor focuses on function. That is why in terms of detention, indictment or prosecution, they are called public prosecutors because in these activities certain prosecutors have been appointed to handle them, which means individuals representing their positions.

Paingot Rambe Manalu, et al stated: [11]

Article 270 of the Criminal Procedure Code clearly says "prosecutors carry out court decisions" means the prosecutor's office. This also means that the task of the public prosecutor has been completed after the judge's decision. To carry out the court's ruling it is deemed that the continued task of its implementation is left to the institution. That is why in a narrow sense the criminal justice system

seems to end only with a ruling court. This also reinforces the principle that after the convicted serving his sentence, it is in the context of socialization and rehabilitation with coaching at the Correctional Institution, hereinafter referred to as prisoners (Article 10 paragraph (2) of Law No. 12 of 1995 Concerning Corrections).

However, this can still be debated, because serving sentences is basically also in the context of law enforcement which means the scope of the criminal justice system.

When a court ruling has permanent legal force, the clerk makes and signs a statement that the ruling obtains permanent legal force and sends it to the prosecutor's office. Then specifically the verdict which constitutes the imprisonment of the deprivation of liberty (imprisonment or confinement), the prosecutor makes a warrant running the court's decision sent to the Correctional Institution, accompanied by the appeal of the convicted person to the Corrective Institution.

Penitentiary accepts the surrender of the convicted person by registering a court decision, identity, fingerprinting and others. Since the registration, the status of the convicted person has turned into a prisoner and his guidance has become the responsibility of the Correctional Institution (Article 10 paragraphs 1, 2 and 3 of Law No. 12 of 1995 Concerning Corrections). However, there is still a connection with the authority and responsibility of the prosecutor's office in conducting supervision (Article 14 paragraph 3 of the Criminal Procedure Code), regarding giving opinions (recommendations) on the granting and revocation of conditional release and supervising the convicted person while serving a conditional sentence (Article 16 paragraphs 1 and 2 of the Criminal Code).

At the time of pronouncement of the decision by the Judge, the Prosecutor must pay attention to the form of the decision, relating to Article 191 of the Criminal Procedure Code, whether the decision contains an acquittal, free from all claims, and a conviction decision.

If the verdict is in the form of acquittal and acquittal of all charges, then the detained defendant must be immediately released from detention, unless there are other reasons to keep detaining (Article 191 paragraph 3 of the Criminal Procedure Code jo. Article 192 of the Criminal Procedure Code). If they remain detained for other reasons, the chairman of the panel of judges must report to the head of the district court as the supervisor and observer of the court's decision (Article 191 paragraph (3) of the Criminal Procedure Code).

In the case of a conviction in the form of deprivation of liberty, if the defendant is detained, the judge can order to be detained, if he meets the requirements as stipulated in Article 21 of the Criminal Procedure Code, ie the convicted person is feared to flee, repeat the act and disrupt the process of law enforcement. If the convicted person can be detained or released if there is sufficient reason for that (Article 193 paragraph (2) of the Criminal Procedure Code).

In addition to the above, it is also necessary to pay attention to court decisions relating to Article 45 of the Indonesian Criminal Code Jo Article 25 of Law No. 12 of 1995 Concerning Corrections, namely convicts under the age of 16 (sixteen) years. This is to determine to which Penal Institution the guidance is given and what form of guidance

it will take, whether as a criminal offspring or as a state child (Article 1 to 8 letters b and c jo. Article 18 of Law No.12 of 1995).

Then regarding the court's decision in the form of capital punishment, based on Law No. 2 / PNPS / 1964 Jo. UU no. 5 of 1959 and the Clemency Law No.22 of 2002, could not be implemented before a presidential decree on the refusal of a request for emergency was accepted by the convicted person.

Regarding the implementation of the death penalty according to Article 11 of the Criminal Code by hanging a convicted person by an executioner to death, it has been replaced by being shot by a firing squad based on Presidential Decree No. 2 of 1964. Advocates (defenders) at their own request or at the request of the convicted person may attend the execution of the death sentence. Supervision of implementation is carried out by prosecutors, not by judges.

Then regarding the decision on items seized as evidence, in a court decision can be in the form of goods seized to be destroyed, returned to the rightful, and determined definitively returned to the confiscated, or seized to the state.

The procedure for implementing a court decision that has a permanent legal force is based on the type of criminal available. This section will explain the procedure for implementing a court decision based on the type of crime handed down. Criminal death, Criminal imprisonment or confinement, Criminal fines, and compensation.[10]

In the Criminal Procedure Code, there are only 7 articles that regulate the implementation of court decisions, namely Article 270 through Article 276 Criminal Procedure Code as follows:

1. Implementation of court decisions by prosecutors (Article 270 of the Criminal Procedure Code);
2. Execution of capital punishment (Article 271 of the Criminal Procedure Code);
3. The implementation of consecutive crimes, if the convicted is sentenced to the same type of consecutive crimes (Article 272 of the Criminal Procedure Code);
4. The implementation of criminal fines within a period of one month, except for the decision of a quick examination that must be immediately paid, the payment of the fine can be extended for a maximum of one month in the event that there is a compelling reason (Article 273 paragraph (1) in conjunction with paragraph (2) of the Criminal Procedure Code);
5. Provision of confiscated evidence for the state (Article 273 paragraphs (3) and (4) of the Criminal Procedure Code);
6. Implementing the award for compensation to other injured parties (Article 274 Criminal Procedure Code);
7. Case fees (Article 275 of the Criminal Procedure Code);
8. Conditional criminal conduct (Article 276 Criminal Procedure Code).

According to the Criminal Procedure Code as mentioned earlier (Article 270), the Prosecutor shall carry out the court's decision. It was not stated how the prosecutor would carry out the decision. Surely this is regulated in the Criminal Procedure Code.

In implementing this court decision, the Criminal Procedure Code firmly refers to the "Prosecutor", in contrast to the prosecutions such as detention, indictment, prosecution, etc. are called "public prosecutors". By itself, this means that prosecutors who are not public prosecutors for a case may carry out a court decision.

In Article 36 paragraph (4) the Law on Judicial Power also regulates the implementation of judges' decisions that pay attention to humanity and justice. First, the registrar makes and signs a statement that the decision has obtained a permanent legal force. Then the prosecutor makes a warrant running the court's decision sent to the correctional institution.

The implementation of court decisions that have legal force remains to be carried out by the Prosecutor. Here there is a change in status from the defendant namely a person who was prosecuted, examined and tried at a court hearing (Article 1 point 15 of the Criminal Procedure Code) to a convicted person namely a person convicted based on a court decision that has obtained permanent legal force (Article 1 point 32 of the Criminal Procedure Code), who gets coaching in Corrections Institutions (LAPAS).

IV. CONCLUSION

The court's decision in a court case that has legal force is still carried out by the Prosecutor on the basis of the type of court that is decided by the judge. In the case of capital punishment, the Prosecutor must coordinate with the Indonesian National Police to determine the time and place of the execution of the death sentence. Specifically for the court but also in confinement, the Prosecutor made an order to execute the court's decision sent to the Correctional Institution, together with sending the convicted person to the Correctional Institution. In the case of fines, payment of fines is carried out within one month. If anything is rejected, the Prosecutor can request a refund in one more month.

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