

# Criminal Responsibility Analysis for the Acculator That is Already Corrected (Medpledger) in the Criminal Action Case of Corruption in Jakarta State Court Case Center Decision Number: 22/PID.SUS-TPK/2020/PN.JKT.PST.

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## ABSTRACT

Criminal Law is contained in the Criminal Code regulations as well as those contained in special laws outside the Criminal Code. The arrangement and determination of the medepleger in the decision number 22/Pid.Sus-Tipikor/2020/Pn.Jkt.Pst. the judge did not determine the punishment even though the medepleger criminal code is known in Article 55 of the Criminal Code. Furthermore, the research method used is normative research and the research approach used is the law and case approach. The results of the study indicate that the regulation regarding medepleger is considered to be still not good, because in practice there are still problems in determining whether a person's actions are included in participation or not, so it is necessary to regulate the provisions of guidelines for implementing the act of participating in doing. Determination of people who participate in the justice system in Indonesia has started since there are people who are suspected of being perpetrators of criminal acts and there is preliminary evidence obtained from the results of investigations conducted by law enforcement officers. Several criminal elements were found in the Primary indictment, including elements with the intention of benefiting oneself or others, elements of abusing power, forcing someone not to do or allowing something and elements of doing or participating in doing something. The panel of judges in determining the act of participating in the decision can also consider other aspects that contain concrete things that can clarify a problem.

**Keywords:** Responsibility, Medepleger, Corruption Crime

## 1. INTRODUCTION

Law has an important meaning in every aspect of life, guidelines for human behavior in relation to other humans and laws that regulate all Indonesian people's lives. Law also cannot be separated from human life, so to talk about law we cannot be separated from talking about it from human life. The presence of law in a country can be seen by a set of existing rules and violations that occur, one of the laws used to protect the interests of the community is criminal law. Criminal law is contained in the regulations of the Criminal Code as well as those contained in the provisions of special laws outside the Criminal Code, to make regulations in all actions in the field is a systematic whole. Because the provisions in the Criminal Code book

also apply to criminal events outside the Criminal Code or in certain special law. In accordance with the intent of the *lex specialis derogat legi generali* principle, which is one of the legal principles which has the meaning that special laws will override general laws. This is stated in Article 63 paragraph (2) of the Criminal Code which states that if an action falls into a general criminal provision but is also included in a special criminal provision, only special criminal provisions will be applied. Special criminal rules that exist outside the Criminal Code are subject to the system and provisions of the Criminal Code as stated in Article 103 of the Criminal Code: "The provisions in Chapters I to Chapter VIII of this book also apply to acts which are others are subject to criminal sanctions, unless the law provides otherwise".

The application of the teachings of participating in Article 55 of the Criminal Code is often not in accordance with the provisions, one of which is the issue of corruption. In several corruption cases, it appears that the panel of judges decided that it was not in accordance with the concept and understanding of the teaching of participation because how could a participant actor be proven to have committed an act of participating in an act of corruption with a person who had been released from all legal charges.

## 2. PROBLEM

Based on the background described above, the formulation of the problem to be discussed in this journal is:

1. How to regulate medepleger actions in corruption crimes?
2. How is medepleger determined in the decision: 22/Pid.Sus-Tpk/ 2020/PN.Jkt.Pst.?

## 3. RESEARCH METHODS

Legal research is a know-how activity in legal science, not just know-about. As a know-how activity, legal research is carried out to solve the legal issues faced. The purpose of legal research is to obtain the truth of coherence and provide prescriptions about what should be done. Therefore, to discuss the problems in writing this thesis using the following methods: The type of research method used in this study is a normative legal research method. The normative research method was chosen because it uses legal theories and positive legal regulations to analyze criminal liability for perpetrators who are suspected of participating in corruption cases (medepleger). The nature of the research used is descriptive analytical, namely by linking the applicable laws and regulations with legal theory and practice of implementing positive law related to the problem. ) Descriptive analytical research is in accordance with research conducted to describe the existing facts and describe the problem of criminal liability for perpetrators who are suspected of participating in corruption cases (medepleger). In the normative research method, the type of data used in this study is secondary data. Secondary legal materials include materials that support primary legal materials, such as textbooks, articles in various scientific magazines or legal journals, papers and literature on opinions of scholars (doctrine and lectures) related to criminal liability for perpetrators. who is suspected of having participated in a corruption case (medepleger). The research approach used is the statutory approach, which is to find out the criminal regulations for the perpetrators who are suspected of participating in the (medepleger) related to the problems being studied, the other approach is the case approach (Case Approach) which aims to find out criminal responsibility for

perpetrators who are suspected of participating in (medepleger) in cases of criminal acts of corruption.

## 4. DISCUSSION

### 4.1. Regulation of Medepleger's Actions in Corruption Crimes

In the perspective of criminal law, corruption involving one or more persons is the participation or participation in committing a crime. Many people perform actions through the intercession of other people, while the intermediary is only used as a tool. Thus there are two parties, namely the direct maker and the indirect maker. In addition, there are many cases where there is more than one perpetrator, which occurs in our society. According to the public prosecutor in the field of special crimes, there are still several problems that often occur because there is still a lack of law that regulates to explain participation itself, resulting in ensuring the role of each party suspected of committing medepleger in accordance with existing provisions, errors can still occur. Because of this in law enforcement in Indonesia, there is a debate on the terms in deciding whether someone participates in doing or not so that there are still those who should be convicted but released and vice versa, as well as judges in imposing penalties on direct and indirect makers of criminal acts. the possibility of making a mistake because of it. In order to impose a crime on a case, the judge must know which maker is direct or indirect and base his decision apart from the law and also consider the demands of the public prosecutor. Of course, what is feared in the future is that the law in Indonesia considers people who participate to be considered unimportant or can even be judged that an action is not required to be punished, so that due to the lack of clarity regarding the law that regulates this is proof that a special regulation is still needed regarding the implementation guidelines that explain the provisions of the act of taking part in the act. In this case the special regulation referred to can be in the form of a supreme court regulation described in Article 79 of Law Number 14 of 1985 concerning the Supreme Court, hereinafter referred to as the Supreme Court Law, based on this law PERMA plays a role in filling legal voids if in the course of the judiciary there are deficiencies. or legal vacancies that have not been regulated in law, the Supreme Court has the authority to make regulations to fill the gaps or vacancies. *Deelneming* means the participation of one or more persons when another person commits a crime. In practice it often happens that more than one person is involved in a criminal act. Beside the perpetrator there is one or more other people who participate. The people who are involved in the cooperation that manifests the crime, each of them is different from the other, but from the differences that exist in each of them there is a relationship that is in such a close way that one act supports the other.

other actions, all of which lead to one, namely the realization of a criminal act. Participation according to the Criminal Code is regulated in Article 55 and Article 56 of the Criminal Code. Based on these articles, the participation is divided into two major divisions, namely the maker and the helper.

#### A. Maker/Dader

**Suspect (Pleger)** In criminal acts that are formulated materially, pleger is a person whose actions cause consequences that are prohibited by law. According to Article 55 of the Criminal Code, those who commit acts here do not commit acts personally or commit criminal acts alone, but together with other people in realizing the crime. So a pleger is a person who fulfills all the elements of the offense, including through other people or their subordinates. Who ordered to do (*doenpleger*) The first form of participation (*Deelneming*) mentioned in Article 55 is ordering to do an action (*Doenpleger*). This happens when someone orders the perpetrator to do an act that is usually a criminal offense, but for some reasons the perpetrator cannot be subject to a criminal penalty. So the perpetrator seems to be a mere tool controlled by the messenger. Participated (*medepleger*) Medepleger is a person who makes an agreement with another person to commit a criminal act and together he also acts in the implementation of a criminal act in accordance with what has been agreed. In medepleger there are three important characteristics that distinguish it from other forms of inclusion. First, the implementation of a criminal act involves two or more people. Second, all the people involved actually cooperate physically in the implementation of the criminal act that occurred. Third, the occurrence of physical cooperation is not by chance, but it has been a pre-planned agreement. Proponent (*uitlokker*) An advocate is a person who encourages another person to commit a criminal act, where the other person is moved to fulfill his suggestion because he is influenced or tempted by the efforts made by the advocate as stipulated in Article 55 paragraph (1) 2 of the Criminal Code.

#### Assistance (Medeplichtige)

Helper is a person who intentionally provides assistance in the form of advice, information or opportunities to other people who commit criminal acts. As stated in Article 56 of the Criminal Code, assistance is of two types:

- Assistance when a crime is committed

The method of how the assistant is not mentioned in the Criminal Code. This is similar to medepleger (participate), but the difference lies in:

- 1) The assistant's actions are only helpful/supportive, while participating is an act of implementation.
- 2) Assistance, the helper only intentionally provides assistance without being required to cooperate and has no self-interest / purpose, while in participating, the person who participates intentionally commits a criminal act, by cooperating and having their own goals.

3) Assistance in violations is not criminalized (Article 60 of the Criminal Code), while participating in violations is still punishable.

4) The maximum penalty for assistant is the maximum penalty for the person concerned, reduced by one third, while participating will be subject to the same punishment.

- Assistance Help before the crime is committed

That is assistance carried out by providing opportunities, facilities or information. This is similar to suggestion (*uitlokking*), but the difference is in the intention/will. In the case of the helper, the material evil will has existed from the beginning / is not caused by the helper, while in the suggestion, the will to do evil in the material maker is caused by the proponent.

Based on the explanation above, it is clear that there is a difference between medepleger (participating) and Medeplichtige (assistance), which theoretically can be distinguished as follows:

The difference between participation and assistance is seen from the nature of the act that is the object of the crime. If someone commits an act which by its nature is an act that is prohibited by law, then that person does it in the form of "participating". Meanwhile, if the person's actions are not criminal, then it is considered to have done "assistance". The basis of this theory is the intention of the participants in an participation. In "participating" the perpetrator does have the will to commit a crime. Whereas in "assistance" the will is directed towards "providing assistance" to people who commit criminal acts. In distinguishing between "participation" and "assistance" in practice it is often seen whether a person meets the requirements of the form of "participation" namely that there is an awareness of cooperation and physical cooperation. If it fulfills these requirements, the participant is classified as "participating". Meanwhile, if they do not meet the requirements above, the participant is classified as "assistance". Criminal inclusion in the Criminal Code and the Law on the Eradication of Criminal Acts of Corruption in an effort to completely eradicate corruption must elaborate as much as possible about the doctrine of inclusion where in Article 55 and Article 56 of the Criminal Code it is determined that all are perpetrators (*als dader*). Article 56 is considered by the father who carried out assistance before and or when the criminal act occurred. With the approach of Article 55 as follows: first, Article 55 paragraph (1) sub-1 says that it can be punished as a maker (*dader*) for those who commit, those who order to do it and who participate in committing the act. In criminal law terminology, the person who commits the act is called pleger and those who order it are called doen pleger and those who participate in the act are called medepleger. So criminal acts committed jointly are only regulated by Article 55 and Article 56 of the Criminal Code, while Article 15 of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption is only a statement referring

to the provisions of Article 55 and Article 56 of the Criminal Code, because it does not specify a specific form. If we look at the construction of the judge's decision in the case of a criminal act of corruption to impose a sentence on someone, but it is clear that the decision states "it is carried out together, however, it is related to the ability of investigators and public prosecutors to drag other perpetrators (pleger) never to be tried, let alone found guilty." Thus, there is an incomplete construction of the act that must be described and proven by the existence of the joint act in a verdict that is not completely divided according to the role of the perpetrator. So actually, schematically, the actions committed by the convict and the construction aspects of the criminal event are difficult to understand as actions that stand alone from each other.

In this legal practice, it is the duty of investigators, public prosecutors and judges to reveal the role of the perpetrator in each case to be examined and decided, meaning that the authority is perfect according to the construction of a criminal event that actually occurred and indeed all of the perpetrators fulfilled or matched the formulation of the offense. The legal basis for corruption in Indonesia is Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the eradication of criminal acts of corruption which came into force on August 16, 1999, this is in accordance with the Decree of the Decree. MPR Number XI/MPR/1998 and published in the State Gazette of the Republic of Indonesia Year 1999 Number 140. Based on the provisions of the legislation, there are several types of criminal penalties that can be imposed by judges on defendants of corruption crimes such as capital punishment, imprisonment and additional penalties. The formulation of participation or participation in Article 55 paragraph (1) to 1 of the Criminal Code reads: "Criminalized as the maker of a criminal act: the person who commits it, who orders it to do it, or who participates in doing it". The perpetrator (Pleger) is the complete maker, that is, his act contains all the elements of the criminal event. In judicial practice, it is the person who, according to the intent of the legislator, must be seen as responsible. Participating (Medepleger) is any person who intentionally "meedoer" (committed) in committing a criminal event whose characteristics are that between the participants there is a recognized cooperation or the participants have jointly committed a criminal act. According to Pompe, participating in the occurrence of a crime there are two possibilities, firstly they each fulfill all the elements in the formulation of the offense, secondly, no one fulfills the elements of the offense entirely, but they both realize the offense.

In medepleger, the condition is that there is conscious cooperation. The existence of mutual awareness does not mean that there is an agreement beforehand, it is enough if there is understanding between the participants at the time the action is carried out with the aim of achieving the same result, the important thing is that there must be a conscious intention. In participating there is a physical joint implementation, close and direct cooperation. People as Participating have the quality as actors (dader).

Participating in the occurrence of a criminal act can be in the form of:

1. The suspects each fulfill all the elements in the formulation of the offense
2. One of the suspects fulfills all the formulations of the offense, while the others do not
3. No one fulfills the elements of the offense entirely, but the suspects jointly realize the offense.

The inclusion in the law on eradicating corruption, namely Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 is referred to as assistance. Article 15 reads as follows: "Everyone who conducts experiments, assistance or conspiracy to commit a criminal act of corruption, shall be punished with the same as referred to in Articles 2, 3, 5, to Article 14." The act of coercion is an act by suppressing the will of another person that is contrary to the will of the person being suppressed itself. In the act of forcing there are three elements: The existence of an opposing will, namely between the will of the coercive person and the will of the coerced person (the object of the act), the victim fulfills the coercion. in accordance with the will of the person who forces and defeats his own will. This means that the fulfillment is not done voluntarily, why is it not done voluntarily, because there is a consequence of compulsion. People who are forced are powerless to determine their attitude and act according to their will. feel reluctant to not fulfill what the coercive person wants, such feelings arise because of the power of the coercive person's position as a civil servant and if that person is not a civil servant who has power, then that person is not likely to fulfill the coercive's will (coercion of such a nature psychic).

Doing something or not doing something, something here is in the form of a qualification, an act, it can be a criminal act or it may not be a crime, it can even be a good deed, while not doing something is a passive act which by not doing something violates a legal obligation. people who are forced to act, are general in nature, meaning that the element of "unlawfully" is not formulated in the formulation of the article, but in general it is known that a civil servant does not have the right to abuse his power. A suspect can be considered to have done this act, if the person who is forced to surrender something has lost his control over the thing in question, something (which) has transferred his power.

#### ***4.2. Determination of Medepleger in Decision Number: 22/Pid.Sus-Tpk/2020/PN.Jkt.Pst***

Legal reasoning carried out by judges is a problematic thinking activity of judges in examining and adjudicating cases, both civil cases, criminal cases and other cases. From criminal cases that are tried, it is often found that the perpetrators consist of several perpetrators or who are also known in criminal law as a criminal act. To adjudicate cases like this, the judge's accuracy when assessing the

crime and guilt of the accused is the key in determining the punishment to be imposed and adjusted to the implementation guidelines in the Criminal Procedure Code. The determination of the medepleger begins with the presence of a person suspected of being a criminal as well as the initial evidence obtained from the results of an investigation conducted by law enforcement officers. This is based on the provisions of Article 1 point 14 of Law Number 8 of 1981 concerning the Criminal Procedure Code which states that "a suspect is a person who because of his actions or circumstances, based on preliminary evidence, should be suspected as a criminal act". At this stage a person is designated as a suspect based on preliminary evidence obtained from the results of the investigation carried out. Based on this preliminary evidence then a person should be suspected as a criminal act. The investigator's decision to designate a person as a suspect is a follow-up to a legal process of investigation. From the general understanding of a criminal act, can it be seen that every act that is qualified as a criminal act must contain elements of violating the law, namely violating a statutory prohibition or ignoring an obligation required by law, which is carried out intentionally or due to negligence, for the violation is threatened with criminal. If the results of the legal process of investigation have reached a conclusion where the investigator believes that this act or event is a criminal act, then the legal process of course proceeds to the legal process of prosecution in which the investigator submits the case file to the public prosecutor until it is continued until a case is decided. by the panel of judges.

From the legal facts obtained from Decision Number: 22/Pid.Sus-Tpk/2020/PN.Jkt.Pst. relating to the medepleger, the judge considers that the corruption crime in the a quo case was carried out in the following way: the defendant Yanuar Rheza Mohamad asked Witness Firsto Yan Presanto to examine Ir. H. Muhammad Yusuf is suspected in the case of the Corruption Crime of Using PT DOK and Shipping Finance with a summons No. SP-218/M.1.5.Fd.1/9/2019 dated 13 September 2019 and Summons No. SP-319/M.1.5Fd.1/11/2019 On November 14, 2019 signed by the Defendant Yanuar Rheza Mohamad. Money Ir. H. Muhamad Yusuf which has been given to the Defendant Yanuar Rheza at the DKI Jakarta High Prosecutor's Office through Witness Cecep Hidayat a total of Rp. 716,000,000.00 (seven hundred and sixteen million rupiah) and USD 20,000 (twenty thousand United States dollars) and which still in the ATM of Witness Cecep Hidayat amounting to Rp. 50,000,000.00 (fifty million rupiah) and the cash confiscated by the Attorney General's Office during OTT from Witness Cecep Hidayat amounting to Rp. 50,000,000.00 (fifty million rupiah) . The actions of the defendant Yanuar Rheza Mohamad and Witness Firsto Yan Presanto, through Witness Cecep Hidayat by scaring Ir. H. Mohammad Yusuf will be made a suspect and will be detained, so that Ir. H. Mohammad Yusuf being forced to spend a certain amount of money is contrary to Government Regulation no. 53 of 2010 concerning Civil Servant Discipline and Regulation of the

Attorney General of the Republic of Indonesia No. PER-067/A/JA/07/2007 concerning the Code of Ethics for Prosecutors, by asking Ir. H. Mohammad Yusuf.

From the judge's considerations above, the occurrence of a criminal act of corruption in this case is a manifestation of the actions carried out by the Defendant Yanuar Rheza Mohamad together with Witness Firsto Yan Presanto, and together with Witness Cecep Hidayat, each of them as criminals, as stated referred to in Article 55 paragraph (1) to 1 of the Criminal Code. Thus, the joint elements in this indictment have been fulfilled in the defendant's actions. The judge also determined that the medepleger in decision number 22/Pid.Sus-Tipikor/2020/Pn.Jkt.Pst. There are criminal elements in the Primary indictment which can be explained below. In Article 12 letter e of the Law on the Eradication of Criminal Acts of Corruption which states "Civil servants or state administrators who with the intention of unlawfully benefiting themselves or others, or by abusing their power to force someone to give something, pay, or receive payments with discounts, or to do something for himself." From this article, the panel is of the opinion that the elements with the intention of benefiting themselves or others in the Primary indictment have been fulfilled in the verdict. Where the element "with intent" is the same meaning as "with a purpose" profitable here is a subjective element attached to the mind of the maker in committing acts of abusing power, namely to benefit oneself or others. Based on the Jurisprudence of the Supreme Court of the Republic of Indonesia dated June 29, 1989 Number: 813 K/PID/1987, what is meant by benefiting oneself or another person or an entity is sufficient to be judged from the fact that occurred or is related to the behavior of the Defendant in accordance with the power he has due to his position or position. The word "or" after the sentence with the aim in the second element above contains an alternative meaning, meaning that the one who benefits can be oneself, another person, who has the same capacity in fulfilling this second element and by fulfilling one of the elements means that he has fulfilled that element. . The element of the maker's error is intentional in the narrow sense, namely intentional as an intention which is interpreted as the closest goal, which is related to the motive of the act, namely by abusing the power of "forcing" people to give something. With oneself is the maker, other people are people other than the maker, while the Corporation in Article 1 paragraph (1) General Provisions of the Law on the Eradication of Corruption Crimes is a collection of people and or assets that are organized, whether they are legal entities or not legal entities.

In Article 421 of the Criminal Code which reads "An official who by abusing his power forces someone to do, not do or allow something, is threatened with a maximum imprisonment of two years and eight months". From the description of the article, the panel is of the opinion that the element of abusing power forcing someone to do nothing or let something in this case has been fulfilled. Where abuse of power to force someone or coercion is clear as an element of an action that is prohibited in the

context of a sentence, the power that lies with the civil servant of the maker is the only cause that causes feelings of hesitation and fear, civil servants who have power over people who are forced to commit all actions such as giving something, paying, or receiving payment with a discount, because all these actions were carried out against his will and that power was the cause. The necessary conditions in the element of abusing power, namely: The maker who is a qualified civil servant really has a power and the power he has is used incorrectly which is not in accordance with that power. Power is a right or ability to determine the will and what is done by other people, the power possessed by civil servants is based on applicable provisions and that power applies and is used in a way outside the applicable provisions and habits, so it is called Abuse of Power. The act of coercion is an act of suppressing the will of another person that is contrary to the will of the person being suppressed itself. In the act of forcing there are three elements, including: the existence of an opposing will, namely between the will of the coercive person and the will of the coerced person (the object of the act). , the victim fulfills coercion in accordance with the will of the person who forces and defeats his own will, this means that the fulfillment is not done voluntarily, why is it done not voluntarily and because of a consequence of coercion The person who is forced is powerless to determine his attitude and act according to his will , the fulfillment of Article 421 of the Criminal Code contains the impression of a feeling of fear, anxiety, feeling reluctant to not fulfill what the coercive person wants, such feelings arise because of the power of the position of the coercive person as a civil servant and if the person is not a civil servant who who has power, then the person is not likely to fulfill the will of the coercion (coercion which is psychic in nature).

The formulation of participation or participation in Article 55 paragraph (1) to 1 of the Criminal Code reads: "Criminalized as the maker of a criminal act: the person who commits it, who orders it to do it, or who participates in doing it". From that article, the panel is of the opinion that the joint elements in the subsidiary indictment have been fulfilled. Where the perpetrator (Pleger) is the complete maker, that is, the act contains all the elements of the criminal event. In judicial practice, it is the person who, according to the intent of the legislator, must be seen as responsible. The one who ordered to do it (Doen Pleger), the element is a person, something human who is used as a tool or there is a human being who by the maker of the offense is used as a tool and the person used as a tool does it. And the tools used cannot be accounted for, this is a sign or characteristic of doenpleger. Participating (Medepleger) is any person who intentionally "meedoer" (committed) in committing a criminal event whose characteristics are that between the participants there is a recognized cooperation or the participants have jointly committed a criminal act. There are two possibilities for the occurrence of a crime, firstly they each fulfill all the elements in the formulation of the offense, secondly, no one fulfills the elements of the offense entirely, but they

both realize the offense. In medepleger, the condition is that there is conscious cooperation. The existence of mutual awareness does not mean that there is an agreement beforehand, it is enough if there is understanding between the participants at the time the action is carried out with the aim of achieving the same result, the important thing is that there must be a conscious intention. In participating there is a physical joint implementation, close and direct cooperation. People as Participating have the quality as actors (*dader*). Participating in the occurrence of a crime can be in the form of: Each of the perpetrators fulfills all the elements in the formulation of the offense, one of the perpetrators fulfills all the formulations of the offense, while the others do not and no one fulfills the elements of the offense entirely, but the perpetrators together create the offense. From the above elements, the panel of judges in determining the act of participating in the decision number 22/Pid.Sus-TPK/2020/PN.Jkt.Pst may also consider other elements, namely: between the participants there is the desired cooperation or the parties involved. the participants have jointly committed a criminal act. There are two possibilities for the occurrence of a crime, firstly they each fulfill all the elements in the formulation of the offense, secondly, no one fulfills the elements of the offense entirely, but they both realize the offense. The existence of mutual awareness does not mean that there is an agreement beforehand, it is enough if there is understanding between the participants at the time the action is carried out with the aim of achieving the same result, the important thing is that there must be a conscious intention.

*Regarding the defense of the Defendant and Witness Cecep Hidayat, the panel has considered in proving the elements of the criminal offense that the Public Prosecutor has indicted against the Defendant, up to how the Defendant got something (money) from Witness Ir. H. Muhammad Yusuf and when Witness Cecep Hidayat handed over money from Witness Ir. H. Muhammad Yusuf and also the involvement of Witness Firsto Yan Presanto who was ordered by the Defendant to examine Witness Ir. H. Muhammad Yusuf and also explained how Witness Firsto Yan Presanto ordered Witness Cecep Hidayat to ask Witness Ir. H. Muhammad Yusuf. Against the defense of the Defendant which stated that the Defendant's problem was not an OTT incident on December 2, 2019, because at that time the Defendant was in the Attorney General's Office of the Republic of Indonesia, the Panel of Judges did not question the issue of OTT or not, but the Panel considered whether the Defendant's actions received something (money). ) from Witness Ir. H. Muhammad Yusuf through Witness Cecep Hidayat is justified by legal provisions, this has been considered by the Panel of Judges when proving the elements of the crime charged by the Public Prosecutor.*

From the description above relating to the act of receiving something, in this case money or a promise, it can be an act of participation because that by participating in enjoying the results of a crime and not reporting it, the person can be considered to know or have the same goals

as the person who committed the crime. . However, to determine whether the person is participating, the magnitude of the person's role in a crime can be seen so that it can be seen that it is true that the person has the desired cooperation then if it is known that the person has a role in a crime and enjoys the results in this case. can be in the form of money or promises, the elements in the act of participating are fulfilled. The Defendant's Legal Counsel has submitted a memorandum of defense which essentially states that the Defendant's actions in relation to Witness Cecep Hidayat cannot be related to the actions taken by Witness Cecep Hidayat who pressured Ir. H. Muhammad Yusuf to give some money, when in fact if viewed objectively, the request for help so as not to be made a suspect came from Ir. H. Muhammad Yusuf himself, without the involvement of the Defendant. The description above can be explained that a person who is suspected of participating in committing the crime can not be punished with a note whether he did the act of his own free will or because there was a compulsion in deciding an action, then the person reported the things he did openly to anyone. parties involved and so on. The person is also not allowed to enjoy the results of the actions committed if the person suspected of participating in doing these things then he can not be punished. From the analysis above, it can be concluded that the determination of medepleger in decision number 22/Pid.Sus-Tpk/2020/PN.Jkt.Pst. The judge considers that the act of accepting something, in this case money or a promise, can be an act of participation, because by participating in enjoying the results of a crime and not reporting it, the person can be considered to know or have the same goals as the person who committed it. However, to determine whether the person is participating, the magnitude of the person's role in a crime can be seen so that it can be seen that it is true that the person has the desired cooperation then if it is known that the person has a role in a crime and enjoys the results in this case. can be in the form of money or promises, the elements in the act of participating are fulfilled. A person who is suspected of participating in committing an act can not be punished with a record whether he did the action of his own free will or because there was a compulsion in deciding an action, then the person reported the things he did frankly, who were the parties involved and so on. . The person is also not allowed to enjoy the results of the actions committed if the person suspected of participating in doing these things then he can not be punished.

## **5. CONCLUSION AND SUGGESTIONS**

### **5.1. Conclusion**

From the results of the discussion regarding the Analysis of Criminal Liability for Perpetrators Who Are Allegedly Committed (Medepleger) in the Corruption Crime Case in the Central Jakarta District Court Decision Number: 22/PID.SUS-TPK/2020/PN.JKT.PST., it can be concluded as follows:

### **1. Regulation of Medepleger's Actions in Corruption Crimes**

The medepleger arrangement in the inclusion doctrine is a teaching that expands the criminality of people involved in a criminal act. Because before a person can be accounted for in criminal law, that person must have committed a criminal act. Participation is regulated in Article 55 and Article 56 of the Criminal Code which means that there are two or more people who commit a crime or in other words there are two or more people taking part to realize a criminal act. If in a case participating in committing a criminal act of corruption can also use Article 15 of Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in which it stipulates that everyone who commits trial, assistance, conspiracy, shall be punished with the same punishment as the person who commits it. However, with the regulation regarding participation outside the Criminal Code, even though it is still considered not good enough because there are still problems in determining the role of participating in a case, so that regulations regarding implementation guidelines are needed that explain the provisions for participating in committing acts.

### **2. Determination of Medepleger in Decision Number: 22/Pid.Sus-Tpk/2020/PN.Jkt.Pst**

The determination of medepleger or people who participate in the judicial system in Indonesia has started since there was a person suspected of being a criminal act and there was preliminary evidence obtained from the results of investigations carried out by law enforcement officials. In the decision number 22/Pid.Sus-Tipikor/2020/Pn.Jkt.Pst. Several criminal elements were found in the Primary indictment, including elements with the intention of benefiting oneself or others, elements that abuse power forcing someone to do not do or allow something and elements that do or participate in doing. The panel of judges in determining the act of participating in the decision, may also consider other elements, namely: between the participants there is the desired cooperation or the participants have jointly committed a criminal act.

### **5.2. Suggestions**

Based on the conclusions of the research above, regarding the Analysis of Criminal Liability for Perpetrators Who Are Allegedly Committed (Medepleger) in the Corruption Crime Case in the Central Jakarta District Court Decision Number: 22/PID.SUS-TPK/2020/PN.JKT.PST., some suggestions can be made as follows:

1. The stakeholder in this case the Supreme Court (MA) is expected that this research can be used as an input in making legal policies in the field of criminal law, especially regarding the mechanism of criminal justice and also regarding the implementation guidelines that explain

the provisions of the act of participating, especially in cases of participating in corruption.

2. The law enforcement apparatus in this case the court which has the authority to examine, hear, and decide a case so as not to look at only a few aspects in deciding a legal issue. However, it is also expected to be able to see a case based on other aspects that contain concrete things that can make a problem clearer.

3. Prospective legal practitioners are required to add insight and knowledge in the field of criminal law, especially regarding the mechanism of criminal justice in cases of participating in corruption.

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