



Asset Recovery of State Financial Losses in the Corruption of Tourism Grants

Nur Syamsi Tajriyani¹, Rebecca Mariana Angelina Girsang², Gunawan Gunawan³, Ferdinand Joseph Paruhum Situmorang⁴

^{1, 2, 3, 4} Faculty of Law, Airlangga University, Surabaya, Indonesia

tatarynta@gmail.com

Abstract. The state's finances are severely harmed by crimes committed in the tourism industry, such as those involving grants for the growth of the industry that were impacted by the COVID-19 pandemic. The objective of this research is to examine the legal ramifications of the state repaying money lost due to corruption in the administration of tourism subsidies, as well as the criminal accountability of those who commit such crimes. This study was written using a statutory approach and normative legal research methodologies. Specifically, it examined the laws and rules pertaining to criminal culpability, grants for tourism, criminal acts of corruption, and procedures for recovering financial losses for the state. The study's findings indicate that different articles of Law No. 31/1999 on the Eradication of Corruption and its modifications may be used against those who commit corruption in tourism grants. In addition to being subject to fines, jail time, or both, offenders may also be expected to reimburse the state for any monetary losses incurred as a result of their illegal acts of corruption. The state may be able to recoup these losses through legal, administrative, or civil processes. This research is expected to provide an understanding of the criminal responsibility of perpetrators of corruption in tourism grants and the mechanism for recovering state financial losses as a juridical basis for improving the management system for tourism grants and more effective law enforcement with the aim of minimizing corruption in the tourism sector.

Keywords: Criminal Liability, Corruption Crimes, Legal Consequences, Recovery of State Financial Losses.

1 Introduction

Since March 2020, the government has imposed restrictions on community activities (PPKM) and large-scale social restrictions (PSBB) in an effort to slow the rate of COVID-19 transmission. These measures have had a significant influence on people's lives. The PSBB and PPKM policies have severely restricted community mobility, which has a significant impact on the minimum income of people who depend on the tourism sector for their daily needs during the pandemic. The policy also contains several other rules, one of which is the temporary closure of tourist areas. The ab-

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sence of income in the tourism sector has had an impact on many tourist resort entrepreneurs who have been forced to close their businesses because businesses in the tourism sector must continue to bear operational costs such as maintenance costs and employee salaries. This is the reason behind the increase in the budget for tourism grants by the government for the sake of economic sustainability which is part of the National Economic Recovery (PEN) program. In 2020, the grant is at IDR 3,300,000,000,000 (three trillion three hundred billion rupiah) and in 2021 it is at IDR 3,700,000,000,000 (three trillion seven hundred billion rupiah).

Nevertheless, the increase in the budget for tourism grants is like a wetland that is often used by irresponsible individuals to commit acts of corruption, one of which happened in Buleleng, Bali in January 2021 which was carried out by several civil servants who have important positions in distributing tourism grants in the form of PEN funds with a total state financial loss of around IDR 738,000,000 (seven hundred thirty-eight million rupiah). [1] For this case, the Public Prosecutor at the Buleleng District Attorney charged the defendant Made Sudama Diana (former Head of the Tourism Office of Buleleng) 4 years in prison and Rp. 131,285,622, - a subsidiary of 2 years in prison; the defendant Nyoman Ayu Wiratini was charged with 2 years in prison and Rp. 15,500,000, - a subsidiary of 1 year in prison; the defendant Putu Budiani was charged with 3 years and Rp. 17,000,000, - a subsidiary of six months and a year in prison; the defendant Kadek Widiastra was charged with 3 years in prison and Rp. 51,600,000, a subsidiary of six months and a year in prison; the defendant Sempiden was charged with 3 years in prison and Rp. 42,320,000, a subsidiary of 1 year and 6 months in prison; the defendant Sudarsana was charged with 3 years in prison and Rp. 38,717,186, - a subsidiary of 1 year and 6 months in prison; the defendant Iga Maheri Agung was charged with 3 years in prison and Rp. 275,571,592 a subsidiary of six months and a year in prison; and the defendant Gunawan was charged for 2 years in prison and Rp. 7,000,000, - a subsidiary of 1 year in prison. [2] In addition, the Buleleng Prosecutor's Office has received recollections from some other people. The total money that has been secured is Rp. 502,960,900, which came from partners, service people, PPTK, and the suspect. [3].

Against this background, the researcher is interested in discussing in more depth the criminal responsibility of the perpetrators of corruption in tourism grants and the legal consequences of returning state financial losses in corruption, associated with the concept of crime and authority in corruption.

2 Research Method

Combined statutory methodologies and normative legal research methods. Analyzing pertinent laws that are pertinent to the legal issues under consideration is how this technique is implemented. According to this method, legal reasons for resolving legal disputes are derived through an analysis of the coherence between several laws. [4]

3 Discussion

3.1 Criminal Liability for Tourism Grants Corruptors

3.1.1. Criminal Actions

In Dutch, the phrase "criminal act" is translated as "Strafbaar Feit" and in Latin it is also called delicta or delictum. Strafbaar feit as a legal term originating from the Dutch language, by legal scientists in Indonesia has been translated into several legal terms, among others, the terms criminal event, criminal act, criminal act, criminal act, criminal offence, punishable act, can be stated. acts that are prohibited by law accompanied by punishment for those who violate them. In this case the author uses the term crime. An act can be qualified as a crime if it meets the elements of a crime, namely:

1. The behavior and the consequences arising from the act;
2. Circumstances or circumstances accompanying the act which consist of the perpetrator himself and outside the perpetrator;
3. Extra conditions that aggravate the offense;
4. Factors opposing objective law (birth);
5. Subjective unlawful element (in thoughts of the perpetrator);

Moeljatno defines a criminal act as an act that is forbidden by law and comes with a warning that anyone who disobeys the ban could face severe consequences. [5] In addition, in the opinion of Simons that an offense (strafbaar feit) is behavior that is threatened with criminal provisions that are against the law relating to mistakes committed by people who have been able to take responsibility [6]. So that the elements that must be present in an offense are punishable by law, contrary to law, the perpetrator is a guilty person, and that person can be held accountable for his actions.

3.1.2. Criminal Liability

The concept of crime as described above is inseparable from the concept of criminal liability. The term "criminal liability" (theorekenbaardheid) in foreign languages also refers to the penalty of an offender with the aim of determining whether or not a defendant or suspect deserves to be held accountable for a criminal act committed. [7] Regarding criminal culpability, criminal law applies the principle of no crime without error (geen straf zonder schuld), which is based on the concept of liability as a key idea known as the doctrine of error (mens rea). [7] Thus, it is not sufficient to say that someone might be held criminally accountable merely because they have broken the law; they also need to satisfy the conditions that indicate the act's perpetrator was at fault. Moeljatno explained the things that need to be considered in whether or not someone can be held criminally responsible as follows:

1. Committing a crime: the acts of an individual are considered to be those of a criminal, actions, activities or activities of that person have violated a rule in a country;
2. Above a certain age and capable of being held responsible: Based on Article 45 of the Colonial Penal Code, a certain age limit for being held criminally responsible is

a minimum of 16 (sixteen) years when committing a crime. However, this does not mean that a person under the age of 16 (sixteen) cannot be punished. Based on the SPPA Law, a person who is 12 (twelve) years old and not yet 18 (eighteen) years old is considered a child. In terms of more recent rules and regulations, an individual who commits a crime and is 12 (twelve) years old can be considered legally responsible. In addition to being based on age, someone may be held liable if:

a. Able to determine intentions, circumstances, wishes, and plans for actions to be performed;

b. Knowing or realizing that his actions are considered inappropriate by the community;

c. Knowing or realizing the meaning, the meaning, the fact of the act that the act is good or bad;

3. Intentional or negligent: Both are forms of wrongdoing, which are deliberately interpreted as "knowingly from the will to commit a certain crime". The form or pattern of intention is classified into 3 (three), namely intentional as an intention (*Dolus Als Oogmerk*); intentionality as certainty (*Zekerheids Bewustzijn*); and intentionality as possibility (*Dolus Eventualis*). [7] Whereas negligence in a broad sense means mistakes in general, while negligence in a narrow sense is a form of error in the form of negligence. [8] Van Hamel is of the view that negligence contains 2 (two) conditions, namely:

a. Not making assumptions as required by law;

b. Not exercising caution as required by law;

4. No excuse for forgiveness: Forgiveness is a reason that erases the mistakes in the offender. [9] The reasons for forgiveness regulated in the Colonial Criminal Code are described as follows:

- incapacity to accept accountability (Colonial Penal Code, Article 44);

- Forced labor or overmacht (as defined in the Colonial Penal Code, Article 48);

- The Colonial Penal Code's Article 49(2) prohibits excessive forcible defense.

- Executing position orders without authority (Article 51 (2) of the Colonial Penal Code)

5. No justification: The rationale serves as a means of disproving the suspect's or defendant's illegal actions. The various justification reasons are as follows:

- Forced or overmacht (Article 48 of the Colonial Penal Code);

- Forced defense or *noodweer* (Article 49 (1) of the Colonial Penal Code);

- Orders of the Law (Article 50 of the Colonial Penal Code);

- Position orders execution (Article 51 (1) of the Colonial Penal Code);

3.1.3. Corruptions

Corruption is derived from the Latin *corruptio-corruptus*, often known as *corruptie* in Dutch. In the Black's Law Dictionary, Henry Campbell Bell defines corruption as an act committed with the goal of obtaining an advantage that is at odds with official duties and other parties' rights, or as an improper use of one's position or character to obtain an advantage for oneself or for others along with those obligations and rights. [10] In Indonesia Corruption Crimes are regulated in Law Number 31/1999 on Eradication of Corruption or abbreviated as the Corruption Law, namely:

a. Article 2 Paragraph (1) : " Individuals who engage in illicit activities aimed at enriching themselves, others, or corporations that pose a threat to the state's finances or economy face life imprisonment or a maximum sentence of 20 years in prison, along with a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and up to IDR 1,000,000,000.00 (one billion rupiah)."

b. Article 3 Paragraph (1) : " If an individual or corporation misuses their position to their own or another person's advantage, they may face life imprisonment, a minimum of one year in prison, a maximum of twenty years in prison, or a fine of up to Rp. 1,000,000,000.00 (one billion rupiah) or more."

Therefore, drawing from the two previously mentioned articles, the following components can be identified as parts of a criminal act of corruption:

a. misuse of the power, resources, and opportunities that come with his status or position.

The definition of authority is defined as the right or the capacity to accomplish something. This is where the word authority originates. As stated by Kamal Hidjaz, the Big Indonesian Dictionary defines authority as the capacity to act, make decisions, exercise governance, and assign accountability to other individuals or organizations. This definition is the same as that of the word authority. [11] Power is the foundation for running the State in order for it to interact, labor, orient, strive, and function in order to serve its people. Bagir Manan asserts that authority in legal terminology is distinct from (*macht*). Only the right to do or not to do is explained by power. Rights and duties (*rechten en plichten*) are the definition of authority in law. [12] Authority is a specification of authority, meaning that whoever (legal subject) is given authority by law, then he is authorized to perform anything called authority. Authority (competence) is defined differently from authority, which is a formal power derived from the law. "Legal power; a right to command or to act; the right and power of public officers to require obedience to their orders legally issued within the scope of their public duties" is the definition of authority given by the Black Laws Dictionary. (Authority or authority refers to the power of the law, the right to rule or take action, and the right or power of a public official to uphold the law when performing their duties to the public). [13] There are three different categories of sources of power from the standpoint of administrative law: attribution, delegation, and mandate. Article 1 number 6 of Law No. 5/1986 states that the authority that exists in a state administrative body or official is opposed to the authority that is transferred. Attribution is the authority associated with a position. Furthermore, as stated in Article 1 number 22 of Law No. 30/2014 on Government Administration, or in the 1945 Constitution of the Republic of Indonesia, attribution is defined as the authority granted to Government Agencies and/or Officials. [13] Indrohardo defines attribution as the conferral of additional governmental power by a legislative provision, regardless of whether it is executed by the original or delegated legislator. Legislators bestow authority upon government entities, who are then tasked with carrying out attributable powers through internal and external duties. These recipients of authority have the ability to increase already existing powers or create new ones. According to Article 1 Point 23 of Law No. 30/2014 on Government Administration, delegation is the transfer of authority from a higher official to a lower official. Delegation is defined as the transfer of au-

thority from higher government agencies and/or officials to lower government agencies and/or officials, with full responsibility and liability transferred to the recipient of the delegation. [14] Article 1 point 24 of Law No. 30/2014 on Government Administration (henceforth referred to as the Government Administration Law) regulates the mandate and defines it as the transfer of authority from a higher government agency or official to a lower government agency or official, with the giver of the mandate still bearing responsibility and liability. [14]

In the meantime, the aspect of misusing the chances presented by one's position or by the position of those who commit corruption. The definition of "opportunity" is a chance that corrupt officials can take advantage of. These possibilities are enumerated in the work processes related to the position that corrupt officials hold or occupy. "Opportunities" typically arise from deliberate misreading of work process regulations or from gaps or flaws in such provisions. In the meanwhile, the component consists of misusing the facilities that are currently in place for those who commit corruption. Terms, techniques, or media are what are meant by "means." "Means" refers to a method of operation or a working technique associated with the position or position of the corrupt individuals in relation to the criminal act of corruption specified in Article 3. Position and its components in corruption are two distinct things. Only civil personnel who have structural or functional positions and are known to commit corruption are eligible to use this post. Although private parties use the position.

b. Opposing Law.

According to Dutch, against the law is *wederrechtelijk*. *Weder* means against and *recht* which means law. Pompe, stated that breaking the law means going against the law in a broader sense, not only against the law but also against the unwritten law. Meanwhile, according to Van Hamel, against the law is *onrechtmatig* or without rights or authority. There are 2 views regarding the nature of lawlessness, namely the formal view and the material view. According to the formal view, unlawful nature exists when the action or actions or activities are contrary to the Law unless otherwise stipulated by the Law (if the act is deemed not against the law then it must be strictly regulated in the Law). Meanwhile, according to a material view, unlawful nature exists if the action or deed has fulfilled the elements of prohibition in a law and violates a norm or custom in society. In contrast to the formal view, the material view has 2 functions, namely the negative and positive functions. Being against the law has a negative function that materially refers to an act, even while it is against the law according to rules and regulations. However, if the behavior in question is deemed lawful by the community, it is not against the law. The positive function of being against the law materially is an act, even though the legislation is not determined as against the law, but if according to the community's opinion the act is unlawful, the act in question is still an unlawful act. [15]

Article 2 Paragraph (1) of the Corruption legislation governs the element against the legislation on corruption. Regarding the idea of breaking the law in Article 2 Paragraph (1), the Constitutional Court's Decision Number 003/PUU-IV/2006 declares the Corruption Law unconstitutional. There would be no disagreement if it were claimed that the Constitutional Court Decision stated lacks binding legal force, despite the fact that it does not specify or explain which of the two purposes of the ex-

licit unlawful teachings or concepts is declared to have no binding legal force. is a lesson or idea that, although it applies in a negative function, is contrary to material law in a positive one. Thus, in accordance with the Constitutional Court's ruling, teachings or notions that are in opposition to material law cannot be used in a constructive way; nevertheless, they can be used in opposition to formal law when interpreting the term "unlawful" in Article 2 paragraph (1).

c. Enriching the firm, oneself, or other people

The word "can" in Article 2 Paragraph (1) and Article 3 of the Corruption Law has been annulled by the Constitutional Court Decision Number 25/PUU-XIV/2016. Therefore the element of enriching oneself, other people or corporations must be proven real and certain or as a material offense. The act of enriching oneself, another person or a corporation is not wrong, however, it becomes wrong if the act is committed against the law (contrary to the law). The sentence "enrich yourself" is an active sentence so that it can be said that there must be an action that results in an increase in one's own wealth, other people, or the corporation. Therefore the element of benefiting oneself, other people or corporations in a criminal act of corruption must be an active act.

The meaning of "enriching" has been included in several court decisions, including the Tangerang District Court Decision on May 13, 1992 No. 18/Pid.B/1992/PN/TNG what is meant by "enriching" is making people richer and Decision of the District Court of Sukabumi Number 31/Pid.B/2008/PN. SMI which was strengthened by the Bandung High Court Decision Number 334/Pid.B/2008/PT.Bdg which limits state financial losses to a minimum of IDR 100,000,000 (one hundred million rupiah) and vice versa if it is less than one hundred million rupiah it is categorized as an element of profitable.

d. Harming state finances or the country's economy

Law No. 1/2004 on the State Treasury, Article 1 number 22, defines "detrimental to state finances or the country's economy" as "a shortage of money, securities, and goods, the real and definite amount as a result of acts against law, either intentionally or negligently." Stated differently, a reduction or loss of state finances constitutes the element of "harming state finances". On the other hand, a "detriment to the country's economy" aspect occurs when the nation's economy experiences a decline, slows down, or suffers harm to its economic interests. The state economy is defined as the portion of the economy that is organized as a community business operating independently under the guidance of government policies, both at the federal and local levels, in compliance with the provisions of the relevant laws and regulations, with the goal of promoting the welfare, prosperity, and benefits of the entire population. (The Corruption Law: An Explanation).

Conversely, a "detriment to the country's economy" element arises when the country's economy encounters a downturn, decelerates, or sustains damage to its economic objectives. To promote the welfare, prosperity, and benefits of the entire population, the state economy is defined as that portion of the economy that is structured as a community business operating independently under the direction of federal and local

policies, in compliance with the provisions of the applicable laws and regulations. (An explanation of the Corruption Law).

What is meant by "there has actually been a loss of state finances" is regulated by Article 32 Paragraph (1) of the Corruption Law. This is defined as a loss whose amount may already be determined based on the conclusions of the appointed public accountant or authorized agency. The Financial and Development Supervisory Agency (BPKP), the Corruption Eradication Commission (KPK), the Government Internal Supervisory Apparatus (APIP), and the Supreme Audit Agency (BPK) are the approved agencies. Article 10 Paragraph (1) of Law No. 15/2006 on the Supreme Audit Agency regulates the BPK's authority and grants it the power to compute and ascertain state financial losses. Article 3 of Presidential Regulation No. 192/2014 on the Financial and Development Supervisory Agency governs the BPKP's jurisdiction and grants it the power to evaluate and ascertain whether public funds have been lost. Article 48 Paragraph (2) of Government Regulation No. 60/2008 on the Government's Internal Control System governs APIP's powers and grants it the power to conduct internal audits and supervision. Law No. 19/2019 on the Second Amendment to Law No. 30/2002 on the Corruption Eradication Commission governs the KPK's jurisdiction.

Regarding the agency authorized to determine whether there was a loss to state finances, the Supreme Court in the Supreme Court Circular Letter (SEMA) No. 4/2016 on the Implementation of the 2016 Formulation of the Results of the 2016 Supreme Court Chamber Plenum as a Guideline for the Implementation of Duties for the Court stated that only the Audit Board of the Republic of Indonesia constitutionally authorized to declare state financial losses. Therefore, for other agencies authorized to calculate state financial losses, they can still carry out their authority, but in terms of determining and declaring state financial losses, only the BPK has the authority.

In criminal acts of corruption, perpetrators harm state finances or the country's economy and hinder national development so that they must be eradicated in order to create a just and prosperous society in accordance with the considerations contained in Law Number 31/1999 on the Eradication of Corruption (UU Tipikor), so that it can be said that the losers are state finances while the victims are the Indonesian people. However, the Indonesian people as victims do not feel that they are victims, in other words, corruption is a crime with non-victimization so that corruption focuses on recovering state financial losses.

In the case that occurred in Buleleng, Bali in January 2021 which was carried out by several civil servants who had important positions in channeling tourism grants policies in the form of PEN (National Economic Recovery) funds with a total loss of state finances of around IDR 738,000,000 (seven hundred and three twenty-eight million rupiah), some of these civil servants have fulfilled all the elements of the criminal act of corruption, especially in Article 3 Paragraph (1) of the Corruption Law. A fine of at least IDR 50,000,000.00 (fifty million rupiah) and up to Rp. 1,000,000,000.00 (one billion rupiah) may be imposed on some of these civil servants, in accordance with Article 3 Paragraph (1) of the Corruption Law. Alternatively, they may be sentenced to life imprisonment. In addition, Article 59 of Law Number 1

of 2004 on State Treasury mandates that a Civil Servant who is not a treasurer shall reimburse the state for any losses incurred by him due to negligence or illegal acts.

3.2 Legal Consequences of Returning State Financial Losses as a Result of Corruption

Law No. 1/2004 on the State Treasury, Article 59, Paragraph 2, states that treasurers, non-treasurer civil servants, and other officials who violate the law or fail to fulfill their obligations to the state must reimburse the state for any financial losses they cause. Any state official and non-treasurer civil servant who breaks the law or neglects their duties, resulting in losses to the state's finances either directly or indirectly, is also required to make up for the lost revenue, according to Law No. 17/2003 on State Finances, Article 35, Paragraph 1.

It is established in Article 4 of the Corruption Law that there is a return on state financial losses, as it states that "Return of state financial losses or the state's economy does not eliminate the punishment of perpetrators of criminal acts as referred to in Articles 2 and 3", this means that even though there is compensation for losses state finances in full from the suspect/defendant, still does not abolish the authority to prosecute the suspect/defendant, but only as a factor that can lighten the sentence to be imposed (*klementie*). In the Decision of the Supreme Court of the Republic of Indonesia dated January 8, 1966 Number 42K/Kr/1965 with the defendant Machroes Effendi where the defendant has fulfilled the formulation of the offense contained in the indictment, but the defendant is declared acquitted of all lawsuits, because there are factors that eliminate the unlawful nature of the defendant's actions, namely: [15]

- a. Public interest carried out or served by the defendant;
- b. Personal interest/personal gain not obtained by the defendant; And
- c. Losses that are not suffered by the state or society;

Regarding the asset recovery of state financial losses as a form of liability for suspects/defendants of corruption, this can be done through:

1. Criminal Process. In the criminal process, the prosecutor's office is given the authority in order to restore state financial losses caused by criminal acts of corruption. The mechanism for recovering state financial losses is divided into several stages, namely:

- a. Investigation Stage. In this stage, investigators can trace assets in carrying out their duties as stated in Article 1 point 2 of the Criminal Procedure Code. This action was carried out in order to provide information to investigators, investigators and public prosecutors regarding the suspect's assets as a first step to recovering state financial losses by identifying assets, where these assets are stored, evidence related to asset ownership, and seeking the relationship of these assets. whether it is an asset obtained as a result of a criminal act of corruption. After that, the investigator is authorized to confiscate the suspect's assets in order to secure the assets to facilitate the execution process when in the trial process the suspect is declared to have committed a criminal act of corruption. Confiscation of assets by the prosecutor or investigator is carried out by blocking accounts, land/land and building certificates, vehicle documents and other movable property.

b. **Prosecution Stage.** Within the prosecution authority of the Attorney General's Office, the Prosecutor's Office may request the Panel of Judges examining the case to impose an obligation to pay compensation for corruption based on Article 18 paragraph (1) letter b of the Corruption Law. In addition, the Public Prosecutor can also ask the Panel of Judges to stipulate that the goods that have been confiscated during the investigation process are confiscated so that an auction can be carried out to cover the state financial losses incurred. [16]

c. **Court Verdict Stage.** This refers to the prosecutor's execution authority as stipulated in Article 270 of the Criminal Procedure Code in the enforcement of crimes related to imprisonment, confinement, fines, evidence and court fees, the prosecutor's office also carries out decisions which contain additional criminal compensation. Regarding the obligation to pay replacement money that has been contained in a legally binding decision, it has consequences, namely non-payment of replacement money can be replaced with imprisonment. If the suspect/defendant agrees to pay the replacement money and there is no payment within the specified timeframe for payment of the replacement money, the Prosecutor's Office may confiscate said assets to be auctioned to pay off the replacement money that has been determined. If the money from the auction is not enough to cover the payment of replacement money which is the obligation of the defendant, it will be calculated how much the state financial loss is still borne by the defendant and how long it is likely that the defendant will have to stay in prison as an effort to replace the obligation to pay replacement money.

2. **Civil Process.** As in Article 32 of the Corruption Law, this process is carried out when investigators are of the opinion that more than one crime in the Corruption Law does not have sufficient evidence, while there has been a clear loss of state finances, so a civil lawsuit can be filed by the injured institution. In addition, civil proceedings are carried out when during an examination at a court hearing, however the defendant dies, but in real terms there has been a loss of state finances, then a duplicate of the minutes of the hearing by the public prosecutor is immediately submitted to the State Attorney or Institution that has suffered a loss to file a lawsuit. against heirs in a civil manner.

3. **Administration Process.** Recovery of losses through the administrative process is the return of state losses due to abuse of power or authority for acts of corruption resulting in huge state financial losses in two forms of settlement in compensating for the state's financial losses, in the form of: [17]

a. **Claims for compensation,** addressed to civil servants who commit acts against the law either intentionally or through negligence, result in state financial losses that are not in the form of a lack of treasury, and the competence to charge lies with the ministry or head of the institution concerned.

b. **Treasury demands,** addressed to the treasurer as a result of unlawful acts, either intentionally or through negligence, have resulted in a shortage of treasury, the competence to charge compensation lies with BPK. In short, the attempt to restore/recover state financial losses of a country through financial penalty based on the Attorney General's Decree Number: KEP-132/J.A/11/1994.

In addition, from an administrative law perspective, attention must be paid to the existence of abuse of authority which can result in losses to state finances, this is regulated in Article 20 of Law No. 30/2014 on Government Administration, namely:

(1) The government's internal control apparatus is in charge of overseeing the ban on abuse of authority as mentioned in Articles 17 and 18.

(2) The audit findings from the government's internal control system, which are mentioned in paragraph (1), take the following form:

a. There is no fault;

b. Administrative mistakes exist; or

c. Administrative mistakes result in financial losses for the country;

(3) A follow-up in the form of administrative improvements must be made in compliance with the rules and regulations if the audit findings from the government's internal apparatus are in the form of administrative errors as mentioned in paragraph (2) letter b;

(4) If the audit results from the government's internal apparatus result in the administrative errors mentioned in paragraph (2) letter c that cause losses to the state finances, the state financial losses must be reimbursed no later than ten (10) working days following the decision and the release of the supervision results;

(5) If the administrative error mentioned in paragraph (2) letter c does not arise from an element of abuse of authority, the Governing Body will bear the return on state financial losses as mentioned in paragraph (4). (6) In the event that the administrative error mentioned in paragraph (2) letter c results from an element of abuse of authority, government officials have the responsibility for reimbursement of state financial losses as mentioned in paragraph (4);

Administrative errors or in other words maladministration according to Law No. 37/2008 on the Ombudsman of the Republic of Indonesia Article 1 number 3 constitutes behavior or acts against the law, exceeding authority, using authority for purposes other than the purpose of that authority, including negligence or neglect of obligations law in the administration of public services carried out by State Administrators and the government which causes material and/or immaterial losses to the community and individuals. Referring to the definition above, it is the community and individuals who are harmed, not losses to state finances, and maladministration is defined as an administrative unlawful act, not an act indicated to enrich certain parties. Administrative errors focus on errors or oversights in the administration of government that cause losses to state finances. That being said, the first thing to prove is the administrative error, not the state financial losses that have arisen. This is very different from criminal acts of corruption which emphasize losses to state finances arising from enriching parties (either oneself or others).

In the case involving several Civil Servants in Buleleng, as mentioned in the introduction above, the Buleleng Prosecutor's Office has received state financial losses of Rp. 502,960,900 from partners, service people, PPTK, to the defendants. In the Decision of the High Court of Bali No. 07/Pid.sus-TPK/2021/PT.Dps dated 14 December 2021 stated that the defendant Made Sudama Diana was found guilty of committing the crime of corruption in tourism grant funds and paid a fine of Rp.57,889,419,- (fifty seven million eight hundred eighty nine thousand four hundred and nineteen

rupiah). In addition, the defendant was also sentenced to a principal sentence of 2 years and 8 months in prison. Meanwhile the defendants Nyoman Ayu Wiratini, the defendants Putu Budiani, the defendants Kadek Widiastira, the defendants Sempiden, the defendants Sudarsana, the defendants Iga Maheri Agung and the defendants Gunawan were found guilty of committing the crime of corruption in tourism grant funds with a prison sentence of 1 year and a fine and compensation of Rp. IDR 50,000,000 (fifty million rupiah) per each defendant. [23] If you look at the decisions and verdicts of the judges mentioned above, it can be seen that even though the defendants have returned state financial losses in the amount of IDR 502,960,900 (five hundred two million nine hundred sixty thousand and nine hundred rupiah) and have paid fines and compensation in the amount determined by the court decision, does not merely eliminate the criminal charge.

4 Conclusion

The perpetrators of the corruption in tourism grant funds committed by the former Head of the Bali Tourism Office and several Civil Servant that occurred in Buleleng, Bali have fulfilled the elements contained in Article 3 of Law no. 31/1999 on the Eradication of Corruption. The defendants can be held liable in the form of imprisonment, fines, or both. And the defendants are required to return state financial losses arising from criminal acts of corruption with a mechanism for recovering state financial losses through criminal, civil and administrative processes. As regulated in Article 59 Paragraph (2) of Law No. 1/2004 on the State Treasury and Article 35 Paragraph (1) of Law No. 17/2003 on the State Finance. However, even though it has made returns for state financial losses, it does not make criminal sanctions against the perpetrators abolished, but only as a factor that can mitigate the sentence to be imposed (klementie) as stipulated in Article 4 of Law No. 31/1999 on the Eradication of Corruption. This can be seen from the verdicts handed down by the Panel of Judges against the perpetrators who were asked to pay parts of the state's financial losses to reduce the sentences imposed by the Public Prosecutor's demands.

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