

Application of the Law on the Eradication of Corruption in Banking Crime Cases (Study of Several Judges' Decisions)

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Abstract

This research aims to determine the basis for judges' considerations in rulings on banking cases that are corruption crimes, and to analyze the types of banking crimes that can be categorized as corruption. This research uses a normative juridical method with a statutory and case-based approach. The results show that judges' considerations in banking crime cases and corruption cases in the banking sector have fundamental differences. In banking crime cases, judges emphasize violations of banking regulations, the principle of prudence, and official responsibilities, without directly linking them to state finances. Meanwhile, in corruption cases, judges assess abuse of official authority, unlawful acts in the management of funds, and a direct link to state financial losses. The form of banking crime that can be categorized as corruption is determined by fulfilling the elements of abuse of authority, unlawful acts, and state financial losses. Therefore, this qualification is not automatic but must be based on a comprehensive legal assessment of the act, the perpetrator, and the resulting consequences.

Keywords: Abuse of Authority; Banking Crime; Corruption; Judge's Consideration; State Financial Loss.

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1. Introduction

Criminal law enforcement in Indonesia is an important instrument in maintaining order, justice, and legal certainty (Almala & Wicaksono, 2025). In its implementation, judges have a very strategic role, namely determining the verdict on a criminal act (Atmsasmita, 2021). The judge's decision as part of the purpose of criminal procedure law, is none other than the court's decision itself (Waluyadi, 1999). The judge's decision in determining the verdict reflects the integrity and credibility of the legal system as a whole (Eugenia et al., 2024). Therefore, the considerations made must be based on a mature legal assessment and based on the principles and facts of the applicable law.

In judicial practice, problems often arise when an act violates more than one specific legal provision or even between the specific laws governing the same object (Sanusi & Artadi, 2024). In principle, if an act is governed by general provisions and special provisions, then what is used is a special rule, in accordance with the principle *Lex Specialist Derogat legi Generalis* which contains the meaning that a specific rule of law sets aside the general rule of law (Sanusi & Artadi, 2024). However, difficulties arise when the act is governed by two equally special provisions, each of which has a different purpose and scope of regulation. Schaffmeister answers the question with the principle *lex specialis systematis* (Sanusi & Artadi, 2024).

One of the areas that often causes these problems is when there are violations in financial and banking activities that at the same time cause losses to state finances. In conditions like this, the perpetrator's actions can be seen as a violation of the principles of prudence and trust in the banking world (banking crimes) (Sandy et al., 2024), as well as an abuse of authority that is detrimental to state finances (corruption crimes). Thus, there is the potential for the application of two different legal provisions, both of which regulate specific criminal acts and have different criminal threats.

Banking is one of the main pillars in modern economic life. Through this institution, the flow of public funds is regulated and directed to support production, investment, and consumption activities. Banks are not only a place to store money, but also function as an institution that channels public trust. The sustainability of the national financial system is highly dependent on the stability of banking institutions. Therefore, every violation that occurs in it has the potential to have a wide impact on the economy and public trust in the state and the applicable legal system.

Bases *Lex Specialis Systematis* is a solution to determine which law is more appropriate to be enforced in the event that an act can be entangled with two or more special laws. Concept *lex specialis systematis* emphasizing that more specific laws should be used systematically taking into account that they must have three important elements. First, the material is special, second, the formal is special, third, the address is special (Sanusi & Artadi, 2024). In this case, namely regarding the Banking Law and the Law on the Eradication of Corruption (Scott, 2021). The Law on the Eradication of Corruption can reach all criminal acts that harm state finances because corruption crimes are closely related to "acts that can harm state finances" (Scott, 2021). This emphasis reflects the underlying policy objectives of protecting public assets and maintaining the fiscal integrity of the country (Arifin, 2024).

The handling of banking cases as a corruption crime is still a pro-con for some legal practitioners (Kurniawan, 2023). The difference in the purpose of regulation is one of the reasons why determining the legal basis in cases like this cannot be done simply. The rules governing financial crimes focus on the stability of the financial system and the protection of public funds, while the provisions on the abuse of authority in the management of state finances focus on preventing state losses and eradicating corruption in the public sector. When both have the potential to be applied to one act, the prosecutor must assess which one better reflects the nature of the act and the consequences caused.

According to Marwan Effendy in his book, investigators and public prosecutors often use articles in the Corruption Eradication Law (UUPTPK) to prosecute bank employees who violate the principle of prudence (Effendy, 2012). This is considering that corruption is a *Extra Ordinary Crime* which must take precedence over other criminal acts (Simamora et al., 2024). The implementation of the UUPTPK often experiences mistakes, especially if it is carried out by employees of State/Regional Owned Enterprises (SOEs/D). Professor of the Faculty of Law, University of Indonesia, Erman Radjagukguk said that "the wealth of the state-owned enterprises Persero and Perum as legal entities is not part of the state's wealth" (FNH, 2020). On the contrary, Nur Basuki Minarno stated that acts of corruption in SOEs can be charged with the UUPTPK because the directors of SOEs are classified as state administrators or civil servants. The legal basis is Article 1 point 2 of the UUPTPK and the explanation of article 2 number 7 of Law Number 28 of 1999.

In the midst of an ever-evolving legal system, the role of judges has become very important. Judges not only function as law enforcers, but also as guardians of justice who must ensure that the application of the law is carried out proportionately. In carrying out their duties, judges are required to have high integrity, independence, and commitment to the values of justice, and be free from interference by any party, including political and economic pressure. Judges are faced with a dilemma between legal certainty and substantive justice. On the one hand, judges must adhere to the provisions of the law; But on the other hand, he is also required to consider moral values, social benefits, and the impact of the verdict handed down. In banking cases, this dilemma often arises when judges have to assess whether an administrative violation can be categorized as a criminal offense, or the extent to which the perpetrator's intentions affect legal liability.

The judge's legal considerations are the most fundamental part of every decision. Through these considerations, the judge explains the reasons why an act is considered to meet the criminal element, or why the defendant deserves a certain sentence. These considerations are a window for the public to assess the extent to which justice is upheld. Therefore, the quality of legal considerations determines the quality of the decision itself. Judges who only rely on the formal aspects of the law without regard to substantive justice will result in a verdict that is dry and loses moral meaning. On the other hand, judges who are able to balance between norms, values, and social reality will produce a verdict that is worth true justice.

The three court decisions issued by the Bandung District Court in 2024 illustrate the variation in judges' perspectives in assessing banking cases. The three decisions are Number 92/Pid.Sus-TPK/2024/PN.Bdg, Number 292/Pid.B/2024/PN.Bdg, and Number 666/Pid.B/2024/PN.Bdg. Each decision displays different legal considerations in interpreting the elements of the criminal act, evidence, and the responsibility of the perpetrator. In one ruling, the judge emphasized the importance of protecting the public interest and economic stability, while in another ruling, the judge highlighted the elements of personal fault and malicious intentions of the perpetrator. This difference shows that legal considerations are not a mechanical process, but a process of reasoning that is loaded with value.

There are many disparities in judges' decisions in more or less the same case (Langkun et al., 2014). Making a study of the three decisions is important because it can show how the judge interprets the legal norms and applies them to concrete situations. This comparative analysis will

reveal the differences in legal mindset among judges, as well as help understand the direction of the development of economic criminal law in Indonesia.

Previous research has shown that cases of bank irregularities that occurred in the city of Medan, namely disbursement of credit by violating credit procedures as stated in Decision No. 190/Pid.Sus/2019/PT.Mdn were subject to criminal threats of violation of credit procedures stipulated in article 49 paragraph (2) letter b of Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking (D. A. Sitorus, 2020). In considering the decision, the judge tends to focus his consideration on the formal juridical aspect, especially the proof of the element of abuse of authority as stipulated in the Banking Law. Similar tendencies were also found by (Borean, 2021), that the Decision on case No. 222/Pid.Sus/2020/PT. Jakarta is based on juridical and sociological considerations that decide that the defendant is legally and convincingly proven to have carried out fundraising activities in the form of deposits without a business license from the Chairman of the Financial Services Authority.

(Niagara, 2021) also found that the banking crime occurred because the defendant participated as a bank employee deliberately did not carry out the necessary steps to ensure the bank's compliance with the provisions of the Law or other provisions of banking regulations. The judge imposed a criminal sentence on the defendant by applying the criminal theory because he was considered to have met objective and subjective conditions, as a result of which the defendant was punished in accordance with his actions in the applicable Banking Law. The research (Puspitarini & Ratnawati, 2023) found that the abuse of bank leaders associated with duties and authorities in a position is categorized as corruption if it causes losses to state finances and the economy. In addition, (J. P. Sitorus, 2025) stated that the criminal liability of perpetrators of corruption in the provision of credit facilities at Bank Negara Indonesia Tanjungkarang branch should comprehensively consider the unlawful nature of the provision of credit facilities, the subjective aspect of the value of state losses, and the objective aspects of the value of state losses. This unlawful nature includes violations of the bank's internal procedures, laws and regulations, and malicious intent (intentionality) to enrich oneself or others.

From the overall literature of the last five years, it can be concluded that research on banking crimes and judges' legal considerations shows a recurring pattern: the main focus is still on the aspect of law application, not on the legal reasoning structure used by judges. In addition,

most research stops at individual analysis of one verdict or one case, not many have conducted an in-depth comparison of several verdicts that have the substance of similar cases. This is where this research finds its relevance. By examining three decisions of the Bandung District Court in 2024, this study not only seeks to describe how judges interpret the law, but also seeks to find consistency or differences in the pattern of legal considerations used by each panel of judges.

2. Problem Formulation & Method Research

Based on the background of these problems, the problems in this study can be described as follows:

1. What is the basis for the judge's consideration in the decision of a banking case that is a corruption crime?
2. What are the forms of banking crimes that can be categorized as corruption crimes?

This research is a qualitative research, because this research emphasizes on understanding the meaning, concept, and interpretation of a phenomenon, not on measuring numbers or statistics. In this study, law is studied as a structured system of norms, consisting of principles, rules, and principles that are interrelated and form a logical unity (Harkrisnowo et al., 2010). This research uses a normative juridical (doctrinal) approach, because this research is carried out by researching literature (legal materials). This research is called normative legal research because what is being researched is legal material and or how to obtain it by means of literature study. This research is a normative juridical research (*Normative Legal Research*) because this research was carried out by researching literature materials (secondary data) (Waluyadi & Leliya, 2022).

3. Analysis and Discussion

3.1 The Basis of Judges' Considerations in Decisions on Banking Crimes and Corruption Crimes in the Banking Sector

In examining and deciding banking criminal cases, judges are not only dealing with criminal law norms in general, but also with the special characteristics of banking activities that are loaded with technical aspects and business risks. Decision Number 666/Pid.B/2024/PN.Bdg and Decision Number 292/Pid.B/2024/PN.Bdg show how the judge tried to place the defendant's actions within the framework of banking law carefully, taking into account the institutional context, the position of the perpetrator, and the nature of the acts committed. The judge's

consideration in the two rulings reflects efforts to maintain a balance between criminal law enforcement and protection of the dynamics of banking activities.

One of the main aspects that the judge is concerned about in the two decisions is the assessment of the elements of the act as formulated in the banking criminal provisions. The judge does not necessarily assess the defendant's actions from the consequences caused, but first investigates whether the act clearly violates the legal obligations stipulated in the banking law. This assessment is carried out by looking at the suitability of the defendant's actions with the normative provisions that regulate the authorities, obligations, and prohibitions for parties involved in banking activities.

In both decisions, the judge's consideration also showed that there was concern for the position and role of the defendant in the bank's organizational structure. The judge considered that the defendant's position as part of the bank's operational system had certain legal consequences, especially related to the responsibility to exercise the principle of prudence and comply with applicable procedures. However, the assessment of the position is not carried out simplistically. The judge not only looked at the formal position held, but also the space of authority that was actually owned and exercised by the defendant in practice.

Another aspect that stands out in the judge's consideration is the distinction between a violation of banking procedures and an act that is punishable. In the banking world, it is not uncommon for procedural irregularities to occur due to administrative negligence or technical errors. The judges in both rulings seemed careful not to necessarily criminalize any procedural irregularities. The assessment is focused on whether the irregularities are carried out knowingly, repeatedly, and have significant implications for the legal interests protected by banking laws.

Consideration of the element of error is also an important part of these decisions. The judge assessed the defendant's inner attitude by paying attention to the series of acts carried out and the context of the decision-making. This assessment reflects the understanding that criminal law requires that there be mistakes that can be accounted for, not just the existence of adverse consequences. Thus, the judge seeks to ensure that criminal liability is imposed based on a clear connection between the act, the inner attitude, and the consequences that arise.

In the two banking crime verdicts, the judge also considered the nature of the losses caused by the defendant's actions. Losses that occur are assessed in the framework of banking losses or

losses of certain parties, not as state financial losses. This consideration is important because it shows a firm boundary between banking crime cases and corruption crimes. By placing the loss in the right context, the judge avoids expanding the application of criminal provisions that are not in accordance with the character of the case.

In addition, the judge's consideration in the two decisions reflects an effort to understand banking activities as business activities that contain risks. The judge seemed to realize that not every loss incurred in banking activities was the result of unlawful acts. Therefore, the assessment of the defendant's actions is carried out by paying attention to whether the act is still within the limits of the reasonableness of business risk or has exceeded the limit so that it is worthy of being considered a criminal act. This approach shows a cautious attitude in using criminal law on economic activities.

The judge's consideration also shows that there is concern for the purpose of the penalty. In the case of banking crimes, criminalization is not only directed to punish the perpetrator, but also to maintain public trust in the banking system. However, this goal is still placed within the framework of proportionality, so that criminal sanctions are not imposed excessively on acts that can still be understood in the context of operational or administrative errors.

Overall, the judge's considerations in Decision Number 666/Pid.B/2024/PN.Bdg and Decision Number 292/Pid.B/2024/PN.Bdg show a contextual and careful approach in assessing banking crimes. The judge seeks to interpret the provisions of banking law by paying attention to the character of banking activities, the position of the perpetrator, and the nature of the acts committed. This approach reflects the understanding that criminal law must be applied selectively and proportionately, so as to be able to protect legal interests without ignoring the reality of banking practices.

These considerations are also an important basis for distinguishing banking crime cases from corruption cases in the banking sector. By placing the act within the appropriate legal framework, the judge not only provides legal certainty for the parties, but also establishes a clear boundary regarding the scope of the application of criminal law in banking activities. This shows that the judge's decision is not just a textual application of norms, but the result of an assessment process that considers substantive justice and legal certainty in a balanced manner.

According to the theory of judges' legal considerations by Lilik Mulyadi, which emphasizes that judges' decisions must be based on two main aspects, namely juridical considerations and non-juridical considerations (Mulyadi, 2010). The judges in these two rulings have placed a focus on the discovery of elements of criminal acts as regulated in banking law. The judge not only looks at the consequences that arise, but first assesses whether the defendant's actions really violate the applicable legal norms. This is in line with Lilik Mulyadi's view that the main basis for the verdict must rest on the legal facts revealed at the trial and the provisions of laws and regulations. The assessment of the authorities, obligations, and prohibitions in banking activities shows that judges prioritize the accuracy of the application of legal norms systematically and not just oriented towards the final result.

Furthermore, in the aspect of non-juridical considerations, the judge's consideration can be seen from the effort to understand the context of banking activities as a business activity that has inherent risks. The judge considered the position of the defendant in the bank's organizational structure as well as the operational reality faced. Not all procedural deviations are seen as criminal acts, but it is assessed in advance whether the act is an administrative error or has fulfilled the element of intentionality that is detrimental to legal interests. This approach reflects Lilik Mulyadi's teaching that judges' decisions must pay attention to the values that live in society and the real conditions behind the occurrence of the act (Mulyadi, 2010).

Overall, if it is associated with the theory of judges' legal considerations according to Lilik Mulyadi, the two decisions reflect a balanced application between juridical and non-juridical aspects. Judges not only adhere to the text of the law, but also consider the context, value of justice, and the purpose of the law more broadly. This approach shows that the judge's consideration has fulfilled the principles of prudence and proportionality in assessing banking crimes, so that it is able to provide a verdict that is not only legally valid, but also fair and useful.

In contrast to the case of pure banking crimes, the judge's consideration in Decision Number 92/Pid.Sus-TPK/2024/PN.Bdg shows that there is a broader legal approach, not only focusing on violations of banking provisions, but also on the implications of the act against the interests of the state. In this case, the judge from the beginning placed the defendant's actions within the framework of the crime of corruption, by assessing the fulfillment of the elements

specifically formulated in the Law on the Eradication of Corruption Crimes. This approach marks a fundamental difference in the way judges read legal events that occur in the banking sector.

One of the main points of the judge's consideration in this decision lies in the assessment of the position of the defendant and the authority attached to his position. The judge considered that the defendant did not just act as a technical executor of banking activities, but as an official who had strategic authority in fund management and decision-making. This position is seen as providing ample space for the defendant to determine the direction of certain policies or actions, so that when the authority is used in a deviant manner, the act can no longer be understood as a mere operational error.

In his consideration, the judge also paid great attention to the element of abuse of authority. Abuse of authority is understood not only as an act that formally violates written rules, but as an exercise of authority that deviates from the purpose of its grant. The judge considered that the defendant's actions were carried out not in order to carry out banking functions reasonably, but for purposes that were not in line with the interests of the institution and the state. This assessment shows that the judge does not stop at the procedural aspect, but digs into the substance of the action taken.

The element of state financial losses is another central aspect in the judge's consideration. In this ruling, the judge emphasized that the bank that is the object of the case has a direct relationship with state finances, so the losses incurred cannot be seen solely as corporate losses. The judge considered that the funds managed by the bank were part of the segregated state wealth, so any unauthorized deduction of the funds had implications for the state's financial losses. This assessment is the main basis for the application of corruption criminal provisions in the banking case.

In assessing the elements of state financial losses, the judge does not only rely on the amount of nominal losses, but also on the causal relationship between the defendant's actions and the losses caused. The judge traced the defendant's series of actions to ensure that the loss was a direct result of the abuse of authority committed. This approach demonstrates the judge's prudence in ensuring that criminal liability is based on a clear cause-and-effect relationship, not on mere assumptions.

Consideration of the element of guilt also received serious attention in this verdict. The judge considered that the defendant's actions were carried out with full awareness of the authority he had and the consequences that may arise from the act. The defendant's inner attitude is considered to be no longer in the realm of negligence or administrative error, but rather shows a willingness to use authority in a deviant manner. This assessment of the inner attitude strengthens the basis for the imposition of criminal responsibility in corruption cases.

In addition, the judge also considered the context of the defendant's actions in the entire banking system. The actions carried out are considered not only financially harmful, but also have the potential to damage public trust in state-owned banking institutions. In this consideration, the judge placed the public interest as one of the important factors that must be protected through criminal law enforcement. Thus, criminalization is not only understood as a response to the actions of individuals, but also as an effort to maintain the integrity of the institutions that manage public and state funds.

The judge's consideration in this decision also reflects the prudence in distinguishing between business risks and criminal acts. The judge emphasized that the defendant's actions could not be justified as a business risk that is prevalent in banking activities, because they were carried out in ways that deviate from the principles of prudence and good governance. This affirmation is important to show that the application of the criminal law on corruption in the banking sector is not aimed at criminalizing every business failure, but rather to crack down on acts that clearly deviate from the purpose of managing state funds.

Overall, the judge's consideration in Decision Number 92/Pid.Sus-TPK/2024/PN.Bdg shows a comprehensive approach in assessing corruption crimes in the banking sector. The judge attributes the elements of authority, abuse, and financial losses of the state as a whole, so that the application of the corruption criminal law does not stand alone, but rests on a thorough analysis of the facts and context of the case. This approach also clarifies the boundary between banking crimes and corruption, as analyzed in the previous section.

These considerations are an important basis in understanding how acts that occur in banking activities can move from the realm of banking crimes to the realm of corruption. By carefully reading the judge's considerations, it can be understood that the main determinant does not lie in the sector where the act occurred, but in the nature of the authority abused and the impact

of the act on the state's finances. This understanding is the key to further analysis of the forms of banking crimes that can be categorized as corruption crimes.

If analyzed using the theory of judges' legal considerations according to Lilik Mulyadi, the judge's considerations in Decision Number 92/Pid.Sus-TPK/2024/PN.Bdg reflect the application of juridical and non-juridical considerations comprehensively in qualifying acts as criminal acts of corruption.

From the juridical aspect, the judge systematically proves the fulfillment of the elements of delicacy, starting from the position of the defendant who has strategic authority, the existence of abuse of authority that is not only understood formally but also substantially, to the proof of the element of state financial loss which is based on a clear causal relationship between the act and the consequences. Meanwhile, from a non-juridical aspect, the judge also considered the defendant's inner attitude, the context of the act in the banking system, and its impact on public trust and state interests, including a firm distinction between business risk and criminal acts. This approach shows that judges not only apply the law textually, but also assess substantively by considering the value of justice, propriety, and protection of the public interest (Mulyadi, 2010).

Thus, the overall considerations in the decision reflect the implementation of Lilik Mulyadi's theory, where the judge builds legal arguments in a whole, proportional, and oriented to substantive justice in determining the transition from banking crimes to corruption crimes.

A comparative analysis of the judges' considerations in Decision Number 666/Pid.B/2024/PN.Bdg, Decision Number 292/Pid.B/2024/PN.Bdg, and Decision Number 92/Pid.Sus-TPK/2024/PN.Bdg shows that there are differences in fundamental legal approaches, even though all of these cases are rooted in activities in the banking sector. The difference does not solely lie in the article applied, but mainly in the way the judge interprets the act, the position of the perpetrator, and the legal impact caused by the act.

In two banking crime decisions, namely Decision Number 666/Pid.B/2024/PN.Bdg and Decision Number 292/Pid.B/2024/PN.Bdg, the judge's consideration showed a tendency to place the defendant's actions in the framework of violations of banking provisions and professional obligations inherent in bank activities. The judge considered that the acts carried out, even though they deviate from the procedure or the principle of prudence, are still closely related to the implementation of banking operational functions. In this context, the focus of consideration is

directed to compliance with internal rules, office authority, and legal consequences arising for the bank or related parties, without drawing such acts into the scope of the state's interests directly.

On the contrary, in Decision Number 92/Pid.Sus-TPK/2024/PN.Bdg, the judge from the beginning placed the case in a broader context, namely the protection of state finances. This difference is clearly seen from the way the judge assesses the position of the perpetrator and the source of funds managed. In the case of corruption, the position of the defendant is understood not only as a bank official, but as a party managing funds that are directly related to state wealth. This assessment has significant implications for the way judges read the elements of the act and the consequences it causes.

A comparison of judges' considerations also shows differences in interpreting the elements of abuse of authority. In the decision on banking crimes, abuse of authority is understood as a violation of the procedural limits and obligations of the position regulated in banking provisions. The abuse is assessed within the scope of the bank's internal relations and its impact on governance and customer trust. Meanwhile, in the verdict on corruption crimes, abuse of authority is interpreted more substantively, namely as the use of authority that deviates from the purpose of giving it and has a direct impact on the reduction of state finances. Thus, the same element is interpreted differently according to the context of the protected legal interest.

A prominent difference is also seen in the assessment of the losses incurred. In the case of banking crimes, the judge places losses as institutional losses or losses of certain parties that are not necessarily qualified as state financial losses. The loss is assessed as a consequence of a breach of banking obligations, without drawing wider implications to the public interest. On the other hand, in the case of corruption, losses are understood as a reduction in state wealth, so they have a broader legal dimension and heavier criminal consequences. This assessment shows that the existence of an element of state financial loss is a very decisive distinguishing point in the judge's consideration.

In terms of assessing the perpetrator's inner attitude, the comparison of the verdict also shows different nuances. In banking criminal cases, judges tend to assess the perpetrator's fault in the framework of negligence or violation of professional obligations, even though it was done consciously. The assessment is not directed at the will to abuse authority for interests that are fundamentally contrary to the institution's objectives. On the other hand, in the case of corruption,

the judge considers that the act is carried out with full awareness of the authority possessed and the consequences that will arise, so that the element of blame gains heavier weight and is closer to substantive irregularities.

This comparison also shows differences in the way judges view business risk. In the case of banking crimes, the judge still provides room for understanding that banking activities contain certain risks, so that not every adverse result can be immediately seen as a serious criminal act. On the other hand, in the case of corruption, the judge emphasized that the actions committed could not be justified as part of the business risk, because they had deviated from the principles of prudence and governance that should be carried out in the management of funds related to the state.

Overall, a comparative analysis of the judges' considerations in the three decisions shows that the difference in the qualification of criminal acts is not determined by the sector where the act occurred, but by the character of the act, the position of the perpetrator, and the legal impact caused. Judges use different parameters according to the legal interests that are considered to need to be protected, resulting in different criminal law applications.

If it is related to the theory of judges' legal considerations according to Lilik Mulyadi, the comparison of the three decisions shows that judges apply juridical and non-juridical considerations contextually (Mulyadi, 2010). In the decision on banking crimes, the judge focused on violations of banking obligations, the position of the perpetrators, and losses that are institutional and still within the framework of business risks. On the other hand, in the verdict on corruption, the judge emphasized the existence of a substantive abuse of authority, the relationship with state finances, and the causal relationship between the state's actions and losses, accompanied by an assessment of the perpetrator's inner attitude and its impact on the public interest. This is in line with Lilik Mulyadi's theory that judges must thoroughly assess the legal elements, the context of the act, and their consequences, so as to produce a proportionate verdict and be able to clearly distinguish between banking crimes and corruption crimes.

This analysis is important to understand that banking crimes and corruption crimes in the banking sector have boundaries that can be traced normatively through the judge's consideration. By reading and comparing these considerations, it can be understood that the application of the

Law on the Eradication of Corruption to banking cases is not automatic, but depends on the fulfillment of certain elements that clearly distinguish these acts from banking crimes in general.

3.2 Forms of Banking Crimes That Can Be Categorized as Corruption Crimes

Qualifying banking crimes as corruption requires a clear and measurable normative framework. The need for such a framework arises from the fact that banking activities are at the intersection between business activities and the management of public interests. Without strict criteria, there is a risk of expanding the application of corruption criminal law to acts that should remain in the realm of banking crimes or even administrative and civil settlements.

The first normative criterion that must be considered is the abuse of authority inherent in the perpetrator's position. Abuse of authority in this context cannot be narrowly understood as a mere violation of technical procedures or provisions. Abuse of authority must be interpreted as the use of authority that deviates from the purpose of its grant and is carried out with awareness of the deviation. Positions in banking institutions provide authority and trust, so that when the authority is used for purposes contrary to the interests that should be protected, the act acquires a more serious legal dimension.

This is in line with Lilik Mulyadi's view that juridical considerations are proof of whether the defendant's actions are in accordance with the formulation of the offense charged (Mulyadi, 2010). In banking activities, this assessment is not enough to only look at procedural violations, but must be traced whether the authority of the position is really used in a deviant manner and contrary to the purpose of granting the authority. Lilik Mulyadi in his theory emphasized that judges must be able to distinguish between administrative errors and criminal acts. This is very relevant to the discussion of the distinction between operational errors in banking and abuse of office authority. In the framework of the relationship between position and deeds, it is an important aspect that must be proven, so the judge must comprehensively assess the facts of the trial, including the position of the perpetrator and the authority he has.

The second normative criterion is the existence of unlawful acts in the management of bank funds. Unlawful acts are not only limited to violations of written norms, but also include actions that are contrary to legal obligations and the principles of responsible fund management. In this context, the management of bank funds should be seen as a mandate that contains legal and moral responsibility. When the funds are managed in a way that deviates from their legal obligations and

management objectives, then the act can be the basis for qualification as a criminal act of corruption.

This is in line with Lilik Mulyadi's view that juridical considerations are the core of proving the elements of criminal acts based on the facts revealed at the trial (Mulyadi, 2010). Thus, judges are required to interpret the unlawful element more broadly and contextually. The emphasis on the need for a clauseal relationship between unlawful acts and the resulting loss reflects a fundamental principle in the juridical consideration of judges.

The third normative criterion that is decisive is the existence of state financial losses or direct linkages with state finances. This element is the main differentiator between banking crimes and corruption crimes. The harm in question does not always have to be a loss that has actually occurred, but must have a clear causal relationship with the unlawful act committed. In the event that the funds managed by the bank are related to state wealth, any irregularities that result in the reduction of these funds can no longer be seen as a mere corporate loss, but as a state financial loss. This is in line with Lilik Mulyadi's view that criminal liability must be based on a clear relationship between acts, mistakes, and consequences. The distinction between state financial losses and banking business risks also reflects the application of non-juridical considerations of judges. Thus, the judge must understand the social reality and conditions that background an act, so that not every loss in business activities can be immediately qualified as a criminal act.

In addition to these three main criteria, it is also necessary to pay attention to the context of the act and the position of the perpetrator in the banking structure. The qualification of corruption crimes becomes more relevant when the perpetrator has a strategic position that allows significant irregularities to occur. This position provides a wide space of discretion, so that irregularities that occur cannot be separated from the position they hold. In this context, the assessment of actions must be carried out by paying attention to the relationship between position, authority, and the consequences caused.

Another normative criterion is a firm distinction between business risk and criminal acts. Banking activities are inherently risky, and not every decision that leads to losses can be seen as an unlawful act. Therefore, the qualification of banking crimes as corruption must be based on the existence of irregularities that exceed the reasonable limits of business risk. When losses arise as

a result of external factors or reasonable business dynamics, the act should not be drawn into the realm of corruption.

By combining all these normative criteria, it can be understood that the qualification of banking crimes as corruption crimes is the result of a comprehensive and contextual legal assessment. The assessment does not only rely on the sector where the act occurred, but on the nature of the act, the position of the perpetrator, and the impact of the act on the interests of the state. This approach allows for the proportionate application of corruption criminal law, without sacrificing legal certainty and the special character of banking activities.

Overall, this normative criterion serves as a guideline to objectively assess whether a banking crime deserves to be qualified as a corruption crime. With clear criteria, law enforcement can be carried out in a more targeted and fair manner, so that the corruption criminal law is not used excessively, but remains effective in protecting state finances and public interests. This normative framework is also a strong conceptual basis for drawing final conclusions regarding the application of the Law on the Eradication of Corruption in the case of banking crimes.

4. Conclusion

The form of banking crime that can be categorized as a corruption crime is determined by the fulfillment of certain normative criteria, namely the abuse of office authority, the existence of unlawful acts in the management of bank funds, and the occurrence of state financial losses or a clear connection with state finances. Banking crimes do not automatically become a criminal act of corruption just because they occur in the banking sector, but it must be proven that the act goes beyond ordinary banking violations and directly touches the interests of the state. Thus, the qualification of banking crimes as corruption crimes is the result of a thorough legal assessment of the acts, perpetrators, and consequences caused.

The judge's consideration in deciding the case of banking crimes places the defendant's actions within the framework of compliance with banking provisions and the obligations of the position attached to the perpetrator. In the verdict on banking crimes, the judge assesses the act by emphasizing violations of procedures, the principle of prudence, and professional responsibility, without automatically linking it to the state's financial interests. On the other hand, in the case of corruption in the banking sector, the judge based his consideration on the abuse of office authority, unlawful acts in fund management, and the direct link of these acts to state financial losses. This

difference in approach shows that judges' considerations are contextual and determined by the nature of the authority, the position of the perpetrator, and the legal impact of the act committed.

5. Recommendations

Law enforcement against banking cases that have the potential for corruption needs to be carried out with a more careful and proportionate approach, so that there is no expansion of the application of corruption criminal law to banking violations that should be resolved within the framework of banking law or non-criminal mechanisms.

Law enforcement officials are expected to have an adequate understanding of the characteristics of banking activities, including the difference between business risks, administrative errors, and substantial unlawful acts. This understanding is important to ensure legal certainty and prevent excessive criminalization of legitimate banking activities.

For policymakers, there is a need for stricter normative clarity regarding the boundaries between banking crimes and corruption crimes, especially in the context of fund management that is related to state finances. This clarity is expected to be a guideline for law enforcers and judges in applying the law consistently and fairly.

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