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Prevention of the Corruption Crime through Administrative Enforcement Mechanism against Abuse of Authority

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Abstract

The law regulates that abuse of authority that results in state financial losses is a criminal offence of corruption. Law 30 of 2014 concerning Government Administration regulates the accountability mechanism for discretion that falls into the category of abuse of authority which then causes state losses which can lead to the application of administrative sanctions as stipulated in Article 80 paragraph (4) of the Government Administration Law. Based on this, the researcher draws a theoretical problem regarding the Prevention of Corruption Through Administrative Enforcement Mechanisms against Abuse of Authority in the Form of Discretion that causes state financial losses using normative

juridical legal research methods with a focus on discussions related to the application of systematic specialist principles in cases of abuse of authority that cause state financial losses as a concept. Where based on the research that has been carried out, it is known that with the development of applicable legal instruments, administrative enforcement against abuse of authority in the form of discretion that causes state financial losses can be used as an instrument to prevent the occurrence of a criminal act of corruption by using the principle that does not override each other, meaning that if it can be resolved by administrative instruments then criminal law instruments are no longer applied, which is theoretically called the principle of Una-Via or ultra vires, meaning that if a case has been resolved administratively then the opportunity to resolve the case by other legal means is closed.

Keywords *Prevention of Corruption, Discretion, Administrative Enforcement Mechanism*

Introduction

Since the 1990s, the discussion of corruption has become a popular theme in major international organizations[1], notably the IMF, World Bank, OECD, Council of Europe, United Nations and European Union. Corruption has been raised on the agenda in the papers of rating agencies and competitiveness evaluation agencies by the World Economic Forum and has been on the agenda of non-governmental organizations. For example, Transparency International has raised public awareness of the issue. It publishes the Corruption perception index (CPI), and the Bribe Payer Index (BPI). The expansion of the scope of the traditional discussion on administration has opened up new perspectives on the problem of corruption[2].

When summed up in the results of the discourse on the problem of corruption and development in the global world, corruption is

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1 Seppo Tiihonen, *Central Government Corruption in Historical Perspective", Seppo Tiihonen (Ed.), The History of Corruption In Central Governmen* (Amsterdam: IOS Press, 2003), 2.

2 Tiihonen.

essentially a problem of economic development in the presence of big money and taking big risks. According to international financial institutions, corruption undermines the legitimacy of the political system. Corruption limits the quality of public services. It is clearly very costly for economic growth and investment in a country, as it increases the cost of doing business in both the public and private sectors. Corruption also clouds the business environment with uncertainty[3], and distorts the regulatory and legal framework that businesses are supposed to rely on[4].

Criminal acts of corruption that continue to increase and are uncontrollable will bring disasters not only to the economic life of the nation but also to the civil and state life in general. The widespread and systematic criminal act of corruption is also a violation of the social and economic rights of the community, so that the criminal act of corruption is categorized not only as a normal crime but has become a serious crime so that its eradication is prosecuted in a serious manner[5].

Law Number 31 of 1999 on the Eradication of the Crime of Corruption as amended and supplemented by Law Number 20 of 2001 (the Corruption Eradication Law), stipulates that the element 'against the law' can be found in the crime of corruption has expanded its meaning as stipulated in Article 2 paragraph (1), which states: "*Every person who unlawfully enriches himself, or another person, or a corporation that may harm the state's finances or economy shall be punished (...)*". The general elucidation of the Law, among other things, states: "*(...) the criminal offenses regulated in this Act are formulated in such a way that they include acts of "unlawfully" enriching oneself or another person or a corporation in the formal and material sense. With this formulation, the notion of unlawfulness in the crime of corruption can also include*

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[3] Susanna Thede and Patrik Karpaty, 'Effects of Corruption on Foreign Direct Investment: Evidence from Swedish Multinational Enterprises', *Journal of Comparative Economics* 51, no. 1 (March 2023): 1, https://doi.org/10.1016/j.jce.2022.10.004.

[4] Anzi, 1998 and Rose-Ackerman, 1999, as quoted in Seppo Tiihonen, "Central Government Corruption in Historical Perspective" Seppo Tiihonen, *Central Government Corruption in Historical Perspective", Seppo Tiihonen (Ed.), The History of Corruption In Central Governmen*, 3.

[5] Supardi Supardi. *Perampasan Harta Hasil Corruption Legal Perspective Yang Berkeadilan*. (Depok: Prenadamedia Group, 2018).

reprehensible acts which, according to the sense of justice of the community, must be prosecuted and punished." Furthermore, in the explanation of Article 2 paragraph (1) itself, it is stated that: *"(...) what is meant by unlawfully in this article, includes unlawful acts in the formal sense as well as in the material sense, i.e. even though the act is not regulated by legislation, if the act is considered reprehensible because it is not in accordance with the sense of justice or the norms of social life in society, then the act can be punished.*"

When traced in the perspective of the legal politics of the formation of the Corruption Eradication Law, the birth of the Corruption Eradication Law is basically expected to answer the challenges of legal needs in order to prevent and eradicate criminal acts of corruption with the main objective of corruption eradication politics is to restore state finances or the state economy and punish the perpetrators[6]. This includes actions related to the exercise of an authority which then harms state finances as regulated in Article 3 of the Corruption Eradication Law.

However, what then needs to be further highlighted is that efforts to prevent the incidence of state financial losses, especially in actions related to the exercise of an authority, have been regulated through various mechanisms, not only through criminal law instruments but also through civil law instruments which also lead to the process of returning state finances both with the aim of prevention and recovery. Because indeed, when viewed in the structure of the norms in the Corruption Eradication Law, the process of returning state finances from the proceeds of corruption can indeed be achieved through two approaches, namely a civil approach (carried out by the Prosecutor as the State Attorney), and a criminal mechanism that can be pursued through the process of confiscation and seizure of assets that have changed hands or that have been in the possession of the convicted person. The return of state finances on the one hand has a preventive meaning (prevention) while on the other hand it is also a manifestation

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[6] Article 4 of the Republic of Indonesia, 'Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption', Pub. L. No. 140, www.bpk.go.id (1999), https://peraturan.bpk.go.id/Details/45350/uu-no-31-tahun-1999.

of the repressive nature (eradication) with the spirit to provide a deterrent effect to the perpetrator.[7]

Apart from criminal and civil mechanisms, another mechanism that is more in nature is the prevention of state losses due to an act related to the exercise of authority, through the mechanism of State Administrative Law carried out by government administration supervisory institutions, including those related to the examination of state financial management and responsibility, as for the institution that holds the highest power in state financial supervision, namely the Audit Board of the Republic of Indonesia (hereinafter referred to as BPK) as an institution authorized attributively and constitutionally to calculate and even declare the existence of state financial losses as Article 10 paragraph (1) of Law Number 15 of 2006 concerning the Audit Board.

The examination carried out by an institution that has been given attributive authority to conduct an examination of the responsibility for managing state finances is basically also related to the function of administering government administration based on Article 20 paragraph (4) of Law Number 30 of 2014 concerning Government Administration (Government Administration Law) which provides implicit meaning regarding the difference between abuse of authority of government officials in the nature of administrative errors and abuse of authority that harms state finances as a concept similar to abuse of authority as in Article 3 of the Corruption Eradication Law.

Although there have been several mechanisms regulated in the context of preventing and recovering state financial losses due to an abuse of authority, in its development, as according to Indriyanto Seno Adji, cases related to the exercise of authority that are detrimental to state finances prioritize the use of criminal mechanisms due to the enactment of Article 3 of the Corruption Eradication Commission Law

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[7] *See* Supardi, *Perampasan Harta Hasil Corruption Legal Perspective Yang Berkeadilan*. *See also* Muhammad Rustamaji, and Bambang Santoso. "The Study of Mutual Legal Assistance Model and Asset Recovery in Corruption Affair." *Indonesian Journal of Criminal Law* 4, no. 2 (2019): 155-160; Ari Wibowo, "Barriers and solutions to cross-border asset recovery." *Journal of Money Laundering Control* 26, no. 4 (2023): 739-750; Ridwan Arifin, et al. "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory." *Volksgeist: Jurnal Ilmu Hukurn dan Konstitusi* 6, no. 2 (2023): 159–181.

without an examination of whether there is an abuse of authority based on Article 20 of the Government Administration Law, which actually applies to acts of active use of authority, namely in the form of discretionary authority ("discretionary power", "*vrijsbestuur*", "*freies ermessen*") to carry out its policies ("*beleid*") in overcoming immediately and immediately by stipulating an action for the benefit of government duties which are not just government powers that carry out laws ("*bound power*"). According to Philipus M. Hadjon, Government Power is an active power that includes the authority to decide independently and the authority to interpret hidden norms ("*vage normen*"). In relation to "*beleidsvrijheid*", the active power of the government, according to Girindro Pringgodigdo, in the form of "*wijsheid*" can be instant actions ("*instant decision*") by looking at the urgency and situation/conditions faced, in the form of decision making which can be regulatory (written) and or written or oral decisions based on the "*discretionary*" power/authority owned[8].

In regard to the exercise of discretion which then has an impact on the emergence of state financial losses due to abuse of authority, it ultimately raises a juridical dilemma because based on the structure of existing laws and regulations there are two legal regimes that regulate the accountability system for abuse of authority which then raises state finances, namely the criminal liability system based on the Corruption Eradication Law and the administrative liability system as stipulated in the Government Administration Law.

The regulation of the criminal liability system for discretion that causes losses to state finances is carried out based on the construction of Article 3 of the Corruption Eradication Law which contains the element that *"... abuses the authority, opportunity or means available to him because of his position or position that can harm state finances ..."* which then leads to punishment based on the threat of punishment as stipulated in the Article. On the other hand, the Government Administration Law also regulates the accountability mechanism for discretion that falls into the category of abuse of authority which then causes state losses which in turn can lead to the application of administrative sanctions as regulated in Article 80 paragraph (4) of the Government Administration Law which stipulates that:

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[8] *See* Law No. 31 of 1999.

> *Government Officials who violate the provisions as referred to in paragraph (1) or paragraph (2) which cause losses to state finances, the national economy, and/or damage the environment are subject to severe administrative sanctions.*

Although discretion is seen as an exercise of active authority relating to the freedom of government action, juridically the exercise of discretion still has limits. One of the main ones is related to the purpose of exercising the discretion which must still be subject to the objectives of the public interest regulated in the legislation based on the principles of good governance, because the juridical consequences of the use of discretion that is not based on the objectives of the legislation and the general principles of good governance (AUPB) result in the discretion will encourage arbitrary actions and abuse of authority[9]. The resulting consequences can also have an impact on the emergence of losses to state finances.

In regard to the exercise of discretion which then has an impact on the emergence of state financial losses due to abuse of authority, it ultimately raises a juridical dilemma because based on the structure of existing laws and regulations there are two legal regimes governing the accountability system for abuse of authority which then raises state finances, namely the criminal liability system based on the Corruption Eradication Law and the administrative liability system as stipulated in the Government Administration Law.

The regulation of the criminal liability system for discretion that causes state losses is carried out based on the construction of Article 3 of the Corruption Eradication Law which contains the substance of "... abusing the authority, opportunity or means available to him because of

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[9] Didik Hery Santosa. "Asas Diskresi dalam Pengambilan Keputusan", *Kemenkeu Learning Center,* December 2017. Retrieved from https://klc2.kemenkeu.go.id/kms/knowledge/klc1-asas-diskresi-dalam-pengambilan-keputusan/detail/. *See also* Mangaraja Manurung, and Dany Try Hutama Hutabarat. "Public Effort and Participation in the Enforcement of Corruption Eradication in Indonesia." *Pandecta Research Law Journal* 18, no. 1 (2023): 35-46; Atha Difa Saputri, and John Lee. "Law Enforcement of Corruption Crimes in the State-Owned Enterprises Sector in Indonesia." *Law Research Review Quarterly* 9, no. 1 (2023): 1-28.

his position or position that can harm state finances ..." which then leads to punishment based on the threat of punishment as stipulated in the Article. On the other hand, the Government Administration Law also regulates the accountability mechanism for discretion that falls into the category of abuse of authority which then causes state losses which in turn can lead to the application of administrative sanctions as regulated in Article 80 paragraph (4) of the Government Administration Law which stipulates that:

> "Government Officials who violate the provisions as referred to in paragraph (1) or paragraph (2) which cause losses to state finances, the national economy, and/or damage the environment are subject to severe administrative sanctions".

In relation to this foundation, in the context of eradicating corruption in Indonesia, the Government Administration Law is basically expected to be an important instrument in preventing corruption, where previously the approach to eradicating corruption, collusion and nepotism was more directed at sanctions (sanctions approach) against perpetrators of corruption. In fact, detection of corruption can also be done through an administrative procedural approach[10]. Therefore, the Government Administration Law is expected to be effective in encouraging the acceleration of the eradication of corruption crimes with the type/form of state financial losses, especially those related to the public sector or government administration.

Based on this issue, the researcher draws theoretical problems regarding the Prevention of the Corruption Crime through the Administrative Enforcement Mechanism against Abuse of Authority in the Form of Discretion resulting in state financial losses by using the legal research method, which is one type of research in conducting research on law, in accordance with the position of legal science as *sui generis* so that the law, which is one of them, consists of legal norms, and what is studied is the norm.

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[10] Mark Turner, Eko Prasojo, and Rudiarto Sumarwono. "The challenge of reforming big bureaucracy in Indonesia." *Policy Studies* 43, no. 2 (2022): 333-351. *See also* Eko Prasojo, *Isu-Isu Kontemporer Kebijakan dan Governansi Publik di Indonesia.* (Jakarta: Prenada Media, 2023).

The theme raised in this research is basically related to the implications of regulating the mechanism for enforcing abuse of authority in the Government Administration Law which conceptually has been regulated previously in the Corruption Crime Law, which has implications for the dualism of the accountability system for abuse of authority that causes state financial losses. Several previous studies have discussed related themes such as the 2020 dissertation from Airlangga University with researcher Chatarina Muliana under the title Testing the Elements of Abuse of Authority by the State Administrative Court in the Context of Handling Corruption Crimes *(Pengujian Unsur Penyalahgunan Wewenang Oleh Pengadilan Tata Usaha Negara Dalam Konteks Penanganan Tindak Pidana Korupsi)* which examines the accountability system based on the mechanism for testing the elements of abuse of authority regulated in Law Number 30 of 2014 concerning Government Administration with its implications in the process of investigating corruption cases of abuse of authority. The focus of discussion in the study is different from this study, which focuses on the application of the principle of a systematic specialist in cases of abuse of authority that cause state financial losses as a concept that is contained between those regulated in the Corruption Eradication Law and the Government Administration Law.

A related theme to this research is also discussed in the research of Nathalina Naibaho, et al *Criministrative Law: Developments And Challenges in Indonesia*, which in the study discussed the application of criminal law in administrative actions, which is different from this study which focuses on the application of administrative mechanisms as an effort to prevent criminal acts of corruption related to abuse of authority that cause state financial losses.

In this study, the researcher uses the legal research method where the prioritization of the type of legal research, making the legal material used in this research revolves around library sources. The approaches used in this legal research are statutory approaches, conceptual approaches, and case approaches.

Analysis of Corruption Crime through Administrative Enforcement Mechanism against Abuse of Authority

The development of the concept of a welfare state as an anti-thesis to the concept of a classical legal state that only acts as a night watchman (*nachtwakerstaat*), has expanded the obligations of the government in regulating the life of the public. In a welfare state, the duties and roles of the government have a wider field of work with the main objective of the public interest[11]. This tendency has strong implications for the prominence of general prevention, where the state through its various supporting instruments is involved as a form of broader public protection. In this case, administrative law is the main instrument of a rule of law, which prioritizes democracy and the protection of human rights.[12]

Considering the broad scope of administrative law as an embodiment of the function of law in modern society, the products of legislation in the field of administration have also experienced a very significant development. The number of legislation products in the field of administration has been described by Administrative Law Professor Crince Le Roy, as a phenomenon and factors that influence the development of administrative law in the Netherlands, which are[13]:

a. The gradual expansion of the duties of the government/authority, which paralleled the industrial revolution;
b. With the industrial revolution, human labor replaced by machine power has created social problems and requires the government/ state to be able to overcome them, which is not only limited to

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[11] Sudargo Gautama, *Pengertian Tentang Negara Hukum (Buku Teks).* (Bandung: Alumni, 1973). *See also* Ralf Michaels, "The Re-State-ment of Non-State Law. The State, Choice of Law, and the Challenge from Global Legal Pluralism." *Wayne Law Review* 51 (2005): 1209-1259; Hans Kelsen,*General Theory of Law and State.* (London: Routledge, 2017).

[12] Philipus Hadjon, Paulus Effendie Lotulung, H.M. Laica. *Hukum Administrasi dan Good Governance.* (Jakarta: Penerbit Universitas Trisakti, 2010).

[13] Sri Soemantri, *Hukum Tata Negara Indonesia: Pemikiran dan Pandangan.* (Bandung: Rosda Karya, 2014).

being a night watchman (*nachtwakerstaat*) but becomes a welfare state (*welvaarsstaet*).

By seeing the many legislative products in the field of administration as an effort of the government/state in the welfare of its citizens, Crince Le Roy calls it the erosion of administrative law in the fields of civil law, criminal law and even constitutional law[14].

The causal relationship between these societal changes and the dependent variable, especially with regard to legislation in the field of state administration at the level of implementation, can be seen in the Government Administration Law, which contains the ideas of the new government thinking which is the background for the preparation of the Government Administration Law. In a working meeting with Commission II of the House of Representatives to discuss the Draft Government Administration Law, on February 25, 2014.[15] The government, in this case the Minister of Administrative Reform and Bureaucratic Reform, in providing Government testimony on the Draft Government Administration Law, explained that the basis and reasons behind the desire to create a Government Administration Law include strengthening the concept and implementation of bureaucratic reform in order to realize good government administration free from corruption, collusion and nepotism and serve the public well[16].

In the context of eradicating corruption in Indonesia, the Government Administration Law is basically expected to be an important instrument in preventing corruption, where previously the approach to eradicating corruption, collusion and nepotism was more

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[14] Soemantri, 354.

[15] Government Statement on the Draft Law on Government Administration delivered at the Working Meeting with Commission II of the House of Representatives for the Discussion of the Draft Law on Government Administration, February 25, 2014, accessed from www.parlemen.net, on December 25, 2023.

[16] M. Ikbar Andi Endang. "Rasio Hukum dan Implikasi Hukum Pengujian Penyalahgunaan Wewenang Menurut Pasal 21 Undang-Undang Administrasi Pemerintahan: Law Ratio and Law Implication Examination of Authority Abuse According to Law of State Administration". *Jurnal Hukum PERATUN* 3, no. 1 (2020): 71-96. *See also* Sabri, Zaharuddin Sani Ahmad, and Muhammad Zaidan Syafiqy Akhmad. "Implications of the Limits for Filing a Lawsuit to the State Administrative Court: Upholding Legal Certainty or Injuring Human Rights?." *Indonesian State Law Review* 6, no. 1 (2023): 1-22.

directed at sanctions (sanctions approach) against perpetrators of corruption. In fact, detection of corruption can also be done through an administrative procedural approach[17]. Therefore, the Government Administration Law is expected to be effective in encouraging the acceleration of the eradication of corruption crimes with the type/form of state financial losses, especially those related to the public sector or government administration.

Until now, criminal acts of corruption in the public sector, especially those related to elements of abuse of authority as a mode that then harms state finances, are the most common types of criminal acts of corruption, where it was recorded that throughout 2022, Law Enforcement Officials investigated the most corruption with the type of State Losses (Article 2 or Article 3 of the Corruption Eradication Law),[18] as shown on Figure 1.

Based on Figure 1, it is known that the mode of budget misuse is the most dominant mode used by perpetrators of corruption cases, which is clearly in the public sector environment. The mode of misuse of the budget coincides with the data that the type of corruption crime related to state financial losses is the most investigated type of corruption crime. As data from Indonesia Corruption Watch (ICW) shows that in 2022 there were approximately 522 (five hundred and twenty-two) cases of corruption crimes related to state financial losses with a total loss in 2022 estimated at around Rp. 48.79 trillion which was then followed by corruption crimes such as bribery of 37 (thirty-seven) cases, extortion of 22 (twenty-two) cases, and embezzlement in office as many as 4 (four) cases.[19]

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[17] Prasojo, *Isu-Isu Kontemporer Kebijakan dan Governansi Publik di Indonesia.*

[18] Indonesia Corruption Watch, "Tren Penindakan Kasus Korupsi Semester 1 Tahun 2022", *ICW,* November 2022. Retrieved from https://antikorupsi.org/id/tren-penindakan-kasus-korupsi-semester-1-tahun-2022

[19] *Indonesia Corruption Watch.*

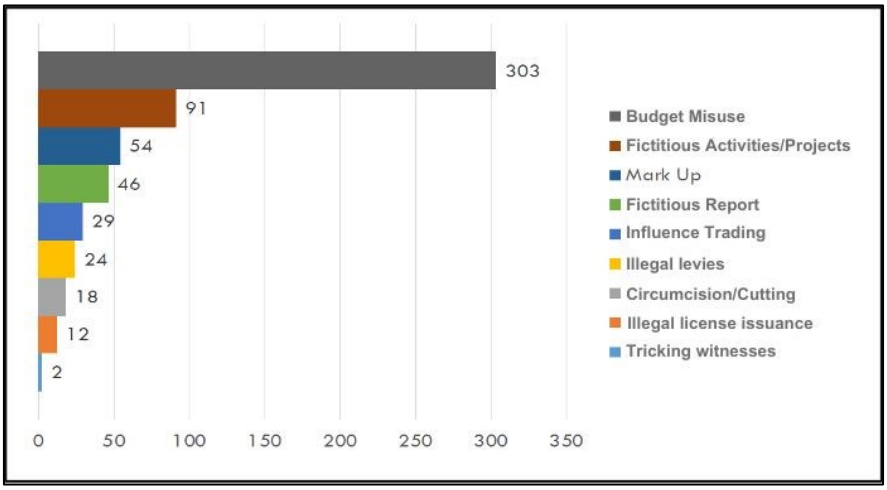

FIGURE 1. Mapping[20] Corruption Cases Based on Modes in 2022

Although the types of corruption crimes that harm state finances are the most common, it turns out that the tendency to prosecute state financial losses does not correspond to efforts to recover state financial losses. As noted by Indonesia Corruption Watch or ICW, in 2021 the amount of state losses due to corruption involving 1,404 defendants reached Rp. 62.9 trillion. However, the amount of state loss recovery imposed by the panel of judges in restitution payments was only around 2.2 (two point two) percent or equivalent to Rp. 1.4 trillion[21].

Such conditions, in the view of the researcher, are urgent to try to make prevention efforts because indeed, when traced in the perspective of the legal politics of the formation of the Corruption Eradication Law as discussed in Chapter III, the birth of the Corruption Eradication Law is basically expected to answer the challenges of legal needs in order to prevent and eradicate criminal acts of corruption with the main objective of corruption eradication politics is to restore state finances or the state economy and punish the perpetrators. This includes actions

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[20] *Indonesia Corruption Watch.*

[21] Susana Rita Kumalasanti, "ICW Sebut Hanya 2,2 Persen Kerugian Negara Berhasil Dikembalikan", *KOMPAS Online,* May, 2022. Retrieved from https://www.kompas.id/baca/polhuk/2022/05/22/icw-sebut-hanya-22-persen-kerugian-negara-berhasil-dikembalikan

related to the exercise of an authority that later harms state finances as stipulated in Article 3 of the Corruption Eradication Law.

In addition, the concept of '*detournament de pouvoir*', which first appeared in France, is the basis of the Administrative Court's examination of government actions and is considered a legal principle that is part of the '*de principes generaux du droit*'. The Conseil d'Etat was the first judicial body to use it as a test, which was later followed by other countries. A government official is found to have violated the principle of *détournement de pouvoir* when the purpose of the decision issued or the action taken is not for the public interest or order but for the official's personal interests (including his family or allies).[22]

The French Conseil d'Etat itself has developed the concept of '*détournement de pouvoir*' into 3 (three) categories, namely[23]:

a. when the administrative act is completely taken without the public interest in mind;
b. when the administrative act is taken on the basis of the public interest but the discretion which the administration exercises in doing so was not conferred by law for that purpose;
c. in cases of *détournement de procedure* where the administration, concealing the real content of the act under a false appearance, follows a procedure reserved by law for other purposes.

The concept of '*détournement de pouvoir*' which was born and developed in France then influenced law enforcement in other European countries such as the Netherlands as one of the former French colonies and Indonesia as a former Dutch colony. Abuse of authority by the Hoge Raad is used as a basis for legal considerations in making decisions[24]. While in Indonesia, abuse of authority is used as a reason

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[22] Yulius Yulius. "Perkembangan Pemikiran dan Pengaturan Penyalahgunaan Wewenang di Indonesia (Tinjauan Singkat dari Perspektif Hukum Administrasi Negara Pasca Berlakunya Undang-Undang Nomor 30 Tahun 2014)." *Jurnal Hukum dan Peradilan* 4, no. 3 (2015): 361-384.

[23] Yulius.

[24] Sobirin Malian, "Penyalahgunaan Wewenang Jabatan oleh Pejabat Negara/ Pemerintah: Perspektif Hukum Administrasi Negara dan Hukum Pidana." *Jurnal Hukum Respublica* 20, no. 1 (2020): 102-121. For comprehensive cases related to the abuse of power, *please also see* Arifin Tumuhulawa, and Roy Marthen Moonti. "The Authority of Government Officials in Delegating and Mandating." *Unnes Law Journal* 7, no. 1 (2021): 47-60; Puhi, Oyaldi, Rustam Hs Akili, and Roy Marthen Moonti. "The Settlement of Abuse of Authority by Government

(basis) for a lawsuit for a person or civil legal entity who feels their interests are harmed by an Administrative Decree (the Plaintiff) as originally stated in Article 53 paragraph (2) letter b of Law Number 5 of 1986 concerning State Administrative Courts, the concept was later developed in the Government Administration Law.

Related to prevention efforts in terms of recovering state financial losses, the state administrative law mechanism carried out by supervisory institutions of government administration, including those related to the examination of management and state financial responsibility, until now can be said to be an effective administrative mechanism in efforts to prevent state financial losses, as for the institution that holds the highest power in state financial supervision, namely the Audit Board of the Republic of Indonesia (hereinafter referred to as BPK) as an institution authorized attributively and constitutionally to calculate and even declare the existence of state financial losses as Article 10 paragraph (1) of Law Number 15 of 2006 concerning the Audit Board.

Based on BPK report data, BPK has saved state finances worth Rp. 229.29 trillion from the period 2005-Semester I 2022. The amount comes from, among others, the transfer of assets / deposits to the state / regional treasury worth Rp. 124.60 trillion, correction of subsidies amounting to Rp. 66.08 trillion, and correction of cost recovery worth Rp. 38.61 trillion, as shown on Figure 2.

The preservation of state financial losses basically overlaps with the authority to assess the actions of state officials that harm state finances carried out administratively by BPK and the authority to enforce criminal law, because BPK itself exercises its authority based on the provisions in Article 10 paragraph (1) of the BPK Act that BPK assesses and / or determines the amount of state losses caused by unlawful acts either intentionally or negligently committed by treasurers, managers of State-owned enterprises (BUMN) / Regional owned enterprises (BUMD), and other institutions or agencies that organize state financial management. In paragraph (2), it is stipulated

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Officials." *The Indonesian Journal of International Clinical Legal Education* 2, no. 1 (2020): 85-100; Judith Sukmaningtyas, and Nabitatus Sa'adah. "Legal Uncertainty Regarding Abuse of Authority That is Harming State Finance in Indonesia." *Journal of Private and Commercial Law* 5, no. 2 (2021): 141-154.

that the assessment of state financial losses and/or the determination of the party obliged to pay compensation as referred to in paragraph (1) is stipulated by BPK decision. As for ensuring the implementation of compensation payments, BPK is authorized to monitor:

a. Settlement of state/regional compensation determined by the Government against non-treasurer civil servants and other officials;
b. Implementation of the imposition of state/regional compensation to treasurers, managers of BUMN/BUMD, and other institutions or bodies that manage state finances that have been determined by BPK; and
c. Implementation of the imposition of state/regional compensation determined based on a court decision that has permanent legal force.

Year	Value of asset surrender/deposit to the state treasury following up on BPK Recommendations - Accumulated from 2005-Semester I period 2022	Subsidy Correction based on IHPS year	Recovery Cost Correction	Total
Semester I 2022	**2.677.269,02**	**1.621.323,20**	**1.335.487,19**	**5.634.079,41**
2020-2021	12.756.507,24	6.635.844,43	6.311.974,49	25.704.326,16
2015-2019	29.756.630,90	22.507.364,48	22.133.575,42	74.397.570,80
2010-2014	31.872.775,10	21.219.546,42	7.874.756,11	60.967.077,63
2005-2009	47.537.993,05	14.099.923,22	953.717,43	62.591.633,70
Total 2005-Semester I 2022	**124.601.175,32**	**66.084.001,75**	**38.609.510,63**	**229.294.687,71**

FIGURE 2. Data on state financial savings by BPK for the period 2005-Semester I 2022.[25]

Where the results of monitoring as referred to in paragraph (3) shall be notified in writing to the House of Representative (DPR), the

[25] Badan Pemeriksa Keuangan Republik Indonesia. *Bangkit dan Tumbuh Untuk BPK yang Makin Kuat dan Makin Hebat: Laporan Tahunan 2022.* (Jakarta: BPK, 2023). *Also compare with* Badan Pemeriksa Keuangan Republik Indonesia. *Membersamai Pembangunan Berkelanjutan: Laporan Tahunan 2023.* (Jakarta: BPK, 2024).

House of Representative Council (DPD), and Local People's Representative Council (DPRD) in accordance with their authority.

As for the provisions regarding the continuation of the determination of state financial losses by the BPK, the mechanism has been regulated based on Law Number 15 of 2004 concerning Examination of State Financial Management and Responsibility, which if the legal subject determined to replace the loss is the Treasurer, the provisions governing it are contained in Article 22 of Law Number 15 of 2004 while for legal subjects in the form of Ministers/heads of institutions/governors/regents/mayors/directors of state companies and other bodies that manage state finances, the compensation mechanism is regulated in Article 23 of Law Number 15 of 2004.

Article 13 of Law Number 15 of 2004 itself regulates that in addition to the examination of the management and responsibility of state finances (general audit) BPK as an examiner is also authorized to conduct investigative examinations in order to reveal indications of state/regional losses and/or criminal elements. Which is related to the general audit examination and its follow-up has been regulated in the Regulation of the Audit Board of the Republic of Indonesia Number 2 of 2017 concerning Monitoring the Implementation of Follow-Up on Recommendations for Audit Results of the Audit Board, while the provisions regarding the investigative examination of the Audit Board of the Republic of Indonesia can be seen in the Regulation of the Audit Board of the Republic of Indonesia Number 1 of 2020 concerning Investigative Examination, Calculation of State/Regional Losses, and Providing Expert Testimony.

In its development, in addition to the results of the BPK examination, efforts to prevent the recovery of state financial losses can also be seen based on the provisions stipulated in the Government Administration Law, where state financial losses arise as part of an examination of whether there is an abuse of authority committed by Government Agencies and / or Officials, the supervision is carried out by a special unit called the Government Internal Supervisory Apparatus, elements of Government Internal Supervisory Apparatus (APIP) itself, among others, as stipulated in Government Regulation Number 60 of 2008 concerning Government Internal Control Systems, namely National and Political Unity Agency (BPKP), Inspectorate

General/Main Inspectorate/Inspectorate which is under and responsible to the Minister/Head of Non-Departmental Government Institution (LPND), Provincial Government Inspectorate which is under and responsible to the Governor, and; District/City Government Inspectorates which are under and responsible to the Regent/Mayor.

The *ratio legis* in the formation of the Government Administration Law, especially with regard to the norm setting of Article 21 of the Government Administration Law, which requires the administrative mechanism to be used as a supervisory instrument with the nature and / or function of prevention (preventive) so that there is no abuse of authority in decisions and / or actions (discretion) carried out by government administration officials (maladministration).

As for carrying out public service tasks that result in criminal acts of corruption in order to strengthen the concept and implementation of bureaucratic reform for the realization of good government administration free from corruption, collusion and nepotism and good public services, according to the researcher, this arrangement can bring about a change in the direction of legal politics related to law enforcement in combating criminal acts of corruption in this country in the form of prevention (preventive efforts) which is as important as the prosecution of corruption, because corruption prevention is a *conditio sine qua non* in the prosecution of corruption[26].

The mechanism for returning state financial losses as part of the results of the APIP examination can be seen in the provisions of Article 20 paragraph (2) of the Government Administration Law which stipulates that the results of the supervision of the government internal supervisory apparatus as referred to in paragraph (1) are: a. there is no error; b. there is an administrative error; or c. there is an administrative error that causes state financial losses. If APIP assesses that there is an Abuse of Authority that is detrimental to state finances by Government Agencies and / or Officials, then as stipulated in Article 20 paragraph (4), "*a refund of state financial losses will be made no later than 10 (ten) working days from the decision and issuance of the results of supervision.*" If

[26] Romli Atmasasmita, 'Abuse of Authority by State Administration: A Critical Note on RI Law Number 30 of 2014 concerning Government Administration Connected with RI Law Number 20 of 2001 concerning Amendments to RI Law Number 31', in *62nd H.U.T IKAHI National Seminar* (Jakarta, 2015).

there is an element of abuse of authority, then as stipulated in Article 20 paragraph (6), the return of state losses as referred to in paragraph (4) shall be borne by the Government Official.

The results of the assessment of abuse of authority itself can then be tested based on Article 21 of the Government Administration Law which implies that there is a legal opportunity provided by law to government officials (norm subjects) who are suspected of abusing authority (both in decisions, actions and/or discretion) in carrying out public service tasks (government administration) which stems from objections to the results of APIP supervision in the form of administrative errors that cause state financial losses, to be able to resolve administratively by submitting an application for testing whether or not there is an element of abuse of authority from the decision and/or action (discretion) he made at the State Administrative Court. So that in this context, government officials who commit abuse of authority, in addition to having the obligation to return state financial losses, on the other hand, will also be subject to severe administrative sanctions as specified in Article 80 paragraph (3) and (4) in conjunction with Article 81 paragraph (3) in conjunction with Article 86 of the Government Administration Law.

The existence of a mechanism for assessing abuse of authority by state officials is indeed problematic because it is related to corruption crimes with the type/form of state financial losses in it, especially regarding the issue of the intersection of two mechanisms, namely administrative which boils down to judicial competence between the State Administrative Court and the criminal prosecution mechanism which is the competence of the Corruption Court. To address this, the Supreme Court has issued Supreme Court Regulation Number 4 of 2015 on Procedural Guidelines in Assessing the Elements of Abuse of Authority, which is not only a complement to the lack of procedural law, but also a technical guideline for law enforcement. In the norm of Article 2 of Supreme Court Regulation Number 4 of 2015, it is stipulated that:

(1) Courts are authorized to receive, examine, and decide on requests for assessments of whether or not there is abuse of authority in the decisions and/or actions of Government Officials prior to criminal proceedings.

(2) The court is only authorized to receive, examine, and decide on the assessment of the petition as referred to in paragraph (1) after the results of the supervision of the government internal supervisory apparatus.

Based on the provisions in Article 2 and Article 3 of PERMA RI Number 4 of 2015, the handling of testing for abuse of authority by Government Officials that causes state financial losses related to corruption crimes can be depicted schematically as shown on Figure 3.

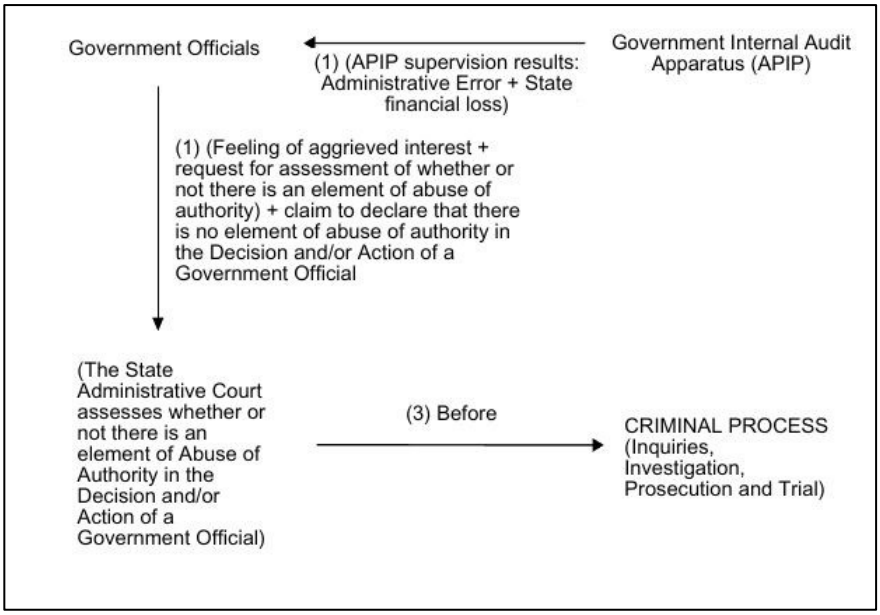

FIGURE 3. Scheme of Handling and Settlement of Testing of Abuse of Authority by Government Officials with the Subject of the Norm, namely Government Officials[27]

The existence of a scheme that is regulated based on the norms of Article 21 of the Government Administration Law and Supreme Court Regulation Number 4 of 2015 actually creates legal problems that make the mechanism unworkable. This is related to the problem of conflict between the competence of the two courts due to the phrase *"before the criminal process*" which is not clearly determined by the Supreme Court Regulation Number 4 of 2015 can occur, for example in the following illustration: Administratively, there is a report or findings from the

[27] *See* PERMA RI Number 4 of 2015.

public or NGOs to the competent authority (Police, Prosecutor's Office or KPK), the competent authority conducts an investigation or follow-up on the report or findings by summoning the relevant parties for questioning including the reported Official A. Then Official A exercises his legal rights as stated in the regulation. Then Official A uses his legal rights as stipulated in the Government Administration Law to apply for an elemental assessment of whether or not there is an abuse of authority based on the results of supervision from APIP at the State Administrative Court. Based on this illustration, it can be seen that the issues that can arise are first, is the administrative process and investigation of Official A, which is a follow-up to the report or findings by summoning related parties for information, including Official A, already categorized as a criminal process? Secondly, if it is categorized as a criminal process, then the application of Official A will be declared unacceptable by the State Administrative Court (PTUN is not authorized) on the grounds that there has been a criminal process?[28]

In the researcher's point of view, to solve these problems, what is needed is a firmer norm in the legislation, in this case at the Law level. Namely by adding new norms relating to the preference for assessment of abuse of authority by APIP and its testing at the PTUN before the implementation of the punishment mechanism. The scheme has specifically been regulated in article 385 of Law 23 of 2014 concerning Regional Government which stipulates that:

(1) The public may submit complaints on alleged irregularities committed by state civil apparatus in Regional Agencies to the Government Internal Supervisory Apparatus and/or law enforcement officials.
(2) The Government Internal Supervisory Apparatus must conduct an examination of the alleged irregularities reported by the public as referred to in paragraph (1).
(3) Law enforcement officials shall conduct an examination of complaints submitted by the public as referred to in paragraph (1), after first coordinating with the Government Internal Supervisory Apparatus or the non-ministerial government agency in charge of supervision.

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[28] PERMA RI Number 4 of 2015.

(4) If, based on the results of the examination as referred to in paragraph (3), evidence of administrative irregularities is found, further proceedings shall be handed over to the Government Internal Supervisory Apparatus.

(5) If, based on the results of the examination as referred to in paragraph (3) evidence of irregularities of a criminal nature is found, further proceedings shall be submitted to law enforcement officials in accordance with the provisions of laws and regulations.

Based on this coordination pattern, the flow of resolving abuse of authority that is detrimental to state finances can be started from reports of examination results / public complaints / reports to Law Enforcement Officials which are then followed up with coordination with APIP to assess whether there is no abuse of authority that is detrimental to state finances, where if a criminal element is found, APIP can report it to APH for investigation. In addition, related to the results of the examination of state financial losses, the investigation is also carried out after an assessment from BPK based on the results of the examination of the existence of state financial losses. Thus, the two mechanisms (APIP and BPK) can be integrated with the corruption enforcement mechanism as shown on Figure 4.

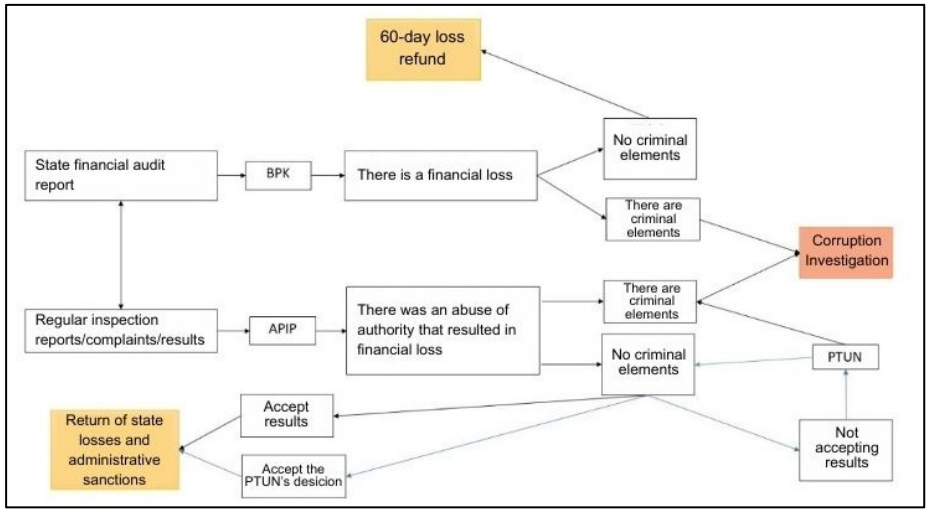

FIGURE 4. Abuse of Authority Assessment Scheme integrated with Corruption Crime Enforcement

Based on the scheme of assessing abuse of authority and assessing state financial losses by the BPK which is integrated with the mechanism for enforcing corruption crimes, especially in handling Article 2 and Article 3 of the Corruption Eradication Law, prevention efforts can not only be made against abuse of authority which has an impact on governance but also prevents greater state financial losses due to the ineffectiveness of recovering state financial losses if done directly with a repressive approach through a criminal mechanism.

As for implementing the scheme, the researcher argues that there is a need for new norms in the regulation of the Government Administration Law which then becomes a bridge with the proposed addition of norms to the explanation of Article 3 of the PTPK Law which re-conceptions the elements of abuse of authority in the PTPK Law. Where the connecting norms that need to be regulated in the Government Administration Law can be regulated by adding provisions in Article 21 of the Government Administration Law, for example Article 21 A, with the following proposed arrangements:

(1) Based on the results of the examination by the Government Internal Supervisory Apparatus as referred to in Article 20, if evidence of irregularities of a criminal nature is found, further proceedings shall be submitted to law enforcement officials in accordance with the provisions of laws and regulations;
(2) In the event that a Government Official submits a request to the Court to assess whether or not there is an element of abuse of Authority in the Decision and/or action as referred to in Article 21, the further process carried out by the Law Enforcement Official for the finding of evidence of irregularities of a criminal nature shall be carried out after the examination by the Court.

As for what is meant by the integrated abuse of authority assessment scheme, it can be seen that the criminal law enforcement process in question is the investigation process as stipulated in Article 1 point 5 of the Criminal Procedure Code, because it is related to the process of searching and finding an event suspected of being a criminal offense in order to determine whether or not an investigation can be carried out.

In addition, determining whether or not there is evidence of criminal irregularities during the examination by APIP results in the

need for an explanation of the indicators regarding the nature of the actions of government officials that lead to violations of criminal law, this relates to preliminary evidence regarding actions that indicate malicious intent by a government official which can be in the form of kickbacks or quid pro quo, gratuities, bribery or other unlawful acquisition of wealth, deviations from public order and decency.

This arrangement, in the perspective of researchers, can strengthen efforts to prevent the occurrence of corruption crimes in Article 2 and Article 3 of the Corruption Eradication Law in the public sector by using administrative instruments. This is a strategy that is currently developing in various countries. The United Nations Office on Drugs and Crime (UNODC) itself has stated the importance of using administrative instruments to prevent criminal acts of corruption, which with administrative instruments can identify risk factors for corruption in government administration, which in turn can form an effective strategy to prevent criminal acts of corruption[29]. By using administrative instruments, several risks can be identified as shown on Table 1.

TABLE 1. Common corruption vulnerabilities in public sector organizations[30]

	Reasons For Contact	**Examples of Vulnerabilities**
EXTERNAL Relations with the private sector or the public Undue influence, personal favouritism or bribery affect decisions	Collect money	Exemption/under collection of taxes, licence fees, import duties, assessments
	Issue contract/order	Favouring one supplier in preparation of tender or contract award, unnecessary change orders
	Pay out money or benefit	Benefit conditioned on kickback or favour, overpayment

[29] UNODC. *State of Integrity: A Guide on Conducting Corruption Risk Assessments in Public Organizations* (Vienna: United Nations, 2020).

[30] UNODC, 'State of Integrity: A Guide On Conducting Corruption Risk Assessments In Public Organizations'.

	Issue permit/licence/ approval	Passports, building permits and inspections, drivers' licences
	Enforce law or rule	Violation not reported or false report threatened, investigation or prosecution dropped
INTERNAL Management of public assets Embezzlement, fraud, loss due to corruption	**Type of Asset**	**Examples of Vulnerabilities**
	Money	Receipt of licences and admission funds, expense reimbursement, salary/overtime
	Equipment	Organization equipment or stockpiles
	information	Theft/sale of confidential information regarding the tender or the organization's future acquisitions, national security data

Based on current legal principles, the preferential application of administrative instruments before criminal law enforcement is closely related to the so-called *Una-Via* Principle which relates to the choice between criminal and administrative sanctions, where the imposition of sanctions for violations of administrative law can be carried out through administrative adjudication mechanism.[31] This is an extension of the *ne bis in idem* principle in that there is a prohibition on a person being punished twice. In the researcher's opinion, the una via principle is the most important. Where statutory provisions should be made to prevent the possibility of the accumulation of criminal and administrative sanctions. This is a vulnerability in the event of an abuse of authority that causes state financial losses.

The application of the *una via* principle in acts of abuse of authority that cause state financial losses is basically in line with the *ultimum remedium* principle which is a general principle in criminal law which requires prior efforts to provide other sanctions (non-penal), in the form of compensation, fines, warnings or other things before the use of criminal law means in the form of imprisonment (body), which is

[31] Dinoroy Marganda Aritonang, "Kompleksitas Penegakan Hukum Administrasi dan Pidana di Indonesia." *Jurnal Legislasi Indonesia* 18, no. 1 (2021): 45-58.

specific to acts of abuse of authority that result in state financial losses, criminal instruments can be returned to their essence, namely to create a *psychologischezwang* effect or psychological coercion, meaning that the existence of a penalty imposed on Government Officials who commit abuse of authority that causes state financial losses will provide fear to other Government Officials.

If viewed from an international aspect, the United Nation Convention Against Corruption (UNCAC), which has been ratified by Indonesia through Law no. 7 of 2006. In this case, article 5 paragraph (3) of UNCAC states that *"Each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption."* So, it is appropriate to carry out policy evaluations to strengthen legal certainty in preventing criminal acts through administrative mechanisms.

Conclusion

Based on current legal principles, the preferential application of administrative instruments before criminal law enforcement is closely related to the so-called *Una-Via* Principle which relates to the choice between criminal and administrative sanctions. This is an extension of the *ne bis in idem* principle in cases where it is prohibited for a person to be punished twice. In the researcher's opinion, the una via principle is the most important. Statutory provisions should be made to prevent the possibility of the accumulation of criminal and administrative sanctions. This is a vulnerability in the event of an abuse of authority that causes state financial losses. The application of the *una via* principle in acts of abuse of authority that cause state financial losses is basically in line with the *ultimum remedium* principle which is a general principle in criminal law which requires prior efforts to provide other sanctions (non-penal), in the form of compensation, fines, warnings, or other things before the use of criminal law means in the form of imprisonment (body), which is specific to acts of abuse of authority that result in state financial losses, criminal instruments can be returned to their essence, namely to create a *psychologischezwang* effect or psychological coercion, meaning that the existence of punishment imposed on Government

Officials who commit abuse of authority that causes state financial losses will provide fear to other Government Officials.

In this research, we suggests several things related to the theme of discretion of government officials that are detrimental to state finances, especially regarding the issue of the intersection between against administrative law and against criminal law, where the researcher suggests the need for a new norm in the regulation of the Government Administration Law which then becomes a bridge with the proposed addition of norms to the explanation of Article 3 of the Corruption Eradication Law which reconciles the elements of abuse of authority in the Corruption Eradication Law. Where the connecting norms that need to be regulated in the Government Administration Law can be regulated by adding provisions in Article 21 of the Government Administration Law, for example becoming Article 21 A, with the following proposed arrangements:

(1) Based on the results of the examination by the Government Internal Supervisory Apparatus as referred to in Article 20, if evidence of irregularities of a criminal nature is found, further proceedings shall be submitted to the Law Enforcement Apparatus in accordance with the provisions of laws and regulations;
(2) In the event that a Government Official submits a request to the Court to assess whether or not there is an element of abuse of Authority in the Decision and/or Action as referred to in Article 21, the further process carried out by the Law Enforcement Official on the finding of evidence of irregularities of a criminal nature shall be carried out after testing by the Court;

As for what is meant by the integrated abuse of authority assessment scheme, it can be seen that the criminal law enforcement process in question is the investigation process as stipulated in Article 1 point 5 of the Criminal Procedure Code, because it is related to the process of searching and finding an event suspected of being a criminal offense in order to determine whether or not an investigation can be carried out. This research also supports the substances in viewed from an international aspect, the United Nation Convention Against Corruption (UNCAC), through administrative measures by create new norms.

References

Arifin, Ridwan, et al. "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory." *Volksgeist: Jurnal Ilmu Hukurn dan Konstitusi* 6, no. 2 (2023): 159–181.

Aritonang, Dinoroy Marganda. "Kompleksitas Penegakan Hukum Administrasi dan Pidana di Indonesia." *Jurnal Legislasi Indonesia* 18, no. 1 (2021): 45-58.

Atmasasmita, Romli. "Abuse of Authority by State Administration: A Critical Note on RI Law Number 30 of 2014 concerning Government Administration is connected with RI Law Number 20 of 2001 concerning Amendments to RI Law Number 31". In *62nd HUT IKAHI National Seminar*. Jakarta, 2015.

Badan Pemeriksa Keuangan Republik Indonesia. *Bangkit dan Tumbuh Untuk BPK yang Makin Kuat dan Makin Hebat: Laporan Tahunan 2022.* (Jakarta: BPK, 2023). Available online at https://www.bpk.go.id/assets/files/annual_report/2023/annual__2023_1678862729.pdf

Badan Pemeriksa Keuangan Republik Indonesia. *Membersamai Pembangunan Berkelanjutan: Laporan Tahunan 2023.* (Jakarta: BPK, 2024). Available online at https://www.bpk.go.id/assets/files/annual_report/2024/annual__2024_1728007568.pdf

Endang, M. Ikbar Andi. "Rasio Hukum dan Implikasi Hukum Pengujian Penyalahgunaan Wewenang Menurut Pasal 21 Undang-Undang Administrasi Pemerintahan: Law Ratio and Law Implication Examination of Authority Abuse According to Law of State Administration". *Jurnal Hukum PERATUN* 3, no. 1 (2020): 71-96.

Gautama, Sudargo. *Pengertian Tentang Negara Hukum (Buku Teks).* (Bandung: Alumni, 1973).

Hadjon, Philipus, Paulus Effendie Lotulung, and H.M. Laica. *Hukum Administrasi dan Good Governance.* (Jakarta: Penerbit Universitas Trisakti, 2010).

Indonesian Corruption Watch. "Tren Penindakan Kasus Korupsi Semester 1 Tahun 2022", *ICW,* November 2022. Retrieved from

https://antikorupsi.org/id/tren-penindakan-kasus-korupsi-semester-1-tahun-2022

Kelsen, Hans. *General Theory of Law and State*. (London: Routledge, 2017).

Kumalasanti, Susana Rita "ICW Sebut Hanya 2,2 Persen Kerugian Negara Berhasil Dikembalikan", *KOMPAS Online,* May, 2022. Retrieved from https://www.kompas.id/baca/polhuk/2022/05/22/icw-sebut-hanya-22-persen-kerugian-negara-berhasil-dikembalikan

Manurung, Mangaraja, and Dany Try Hutama Hutabarat. "Public Effort and Participation in the Enforcement of Corruption Eradication in Indonesia." *Pandecta Research Law Journal* 18, no. 1 (2023): 35-46.

Michaels, Ralf. "The Re-State-ment of Non-State Law. The State, Choice of Law, and the Challenge from Global Legal Pluralism." *Wayne Law Review* 51 (2005): 1209-1259.

Prasojo, Eko. *Isu-Isu Kontemporer Kebijakan dan Governansi Publik di Indonesia*. (Jakarta: Prenada Media, 2023).

Puhi, Oyaldi, Rustam Hs Akili, and Roy Marthen Moonti. "The Settlement of Abuse of Authority by Government Officials." *The Indonesian Journal of International Clinical Legal Education* 2, no. 1 (2020): 85-100.

Republic of Indonesia, Law No. 31 of 1999 concerning the Eradication of Criminal Acts Of Corruption, Pub. L. No. 140, www.bpk.go.id (1999). https://peraturan.bpk.go.id/Details/45350/uu-no-31-tahun-1999.

Republic of Indonesia. *Supreme Court Regulation Number 4 of 2015 on Procedural Guidelines in Assessing the Elements of Abuse of Authority* (PERMA RI Number 4 of 2015).

Rustamaji, Muhammad, and Bambang Santoso. "The Study of Mutual Legal Assistance Model and Asset Recovery in Corruption Affair." *Indonesian Journal of Criminal Law* 4, no. 2 (2019): 155-160.

Sabri, Zaharuddin Sani Ahmad, and Muhammad Zaidan Syafiqy Akhmad. "Implications of the Limits for Filing a Lawsuit to the State Administrative Court: Upholding Legal Certainty or

Injuring Human Rights?." *Indonesian State Law Review* 6, no. 1 (2023): 1-22.

Santosa, Didik Hery. "Asas Diskresi dalam Pengambilan Keputusan", *Kemenkeu Learning Center,* December 2017. Retrieved from https://klc2.kemenkeu.go.id/kms/knowledge/klc1-asas-diskresi-dalam-pengambilan-keputusan/detail/

Saputri, Atha Difa, and John Lee. "Law Enforcement of Corruption Crimes in the State-Owned Enterprises Sector in Indonesia." *Law Research Review Quarterly* 9, no. 1 (2023): 1-28.

Soemantri, Sri. *Hukum Tata Negara Indonesia: Pemikiran dan Pandangan*. (Bandung: Rosda Karya, 2014).

Sukmaningtyas, Judith, and Nabitatus Sa'adah. "Legal Uncertainty Regarding Abuse of Authority That is Harming State Finance in Indonesia." *Journal of Private and Commercial Law* 5, no. 2 (2021): 141-154.

Supardi, Supardi. *Perampasan Harta Hasil Corruption Legal Perspective Yang Berkeadilan*. (Depok: Prenadamedia Group, 2018).

Thede, Susanna, and Patrik Karpaty. "Effects of corruption on foreign direct investment: Evidence from Swedish multinational enterprises." *Journal of Comparative Economics* 51, no. 1 (2023): 348-371.

Tiihonen, Seppo. *Central Government Corruption in Historical Perspective",* Seppo Tiihonen (Ed.), in The History of Corruption in Central Government. (Amsterdam: IOS Press, 2003).

Tumuhulawa, Arifin, and Roy Marthen Moonti. "The Authority of Government Officials in Delegating and Mandating." *Unnes Law Journal* 7, no. 1 (2021): 47-60.

Turner, Mark, Eko Prasojo, and Rudiarto Sumarwono. "The challenge of reforming big bureaucracy in Indonesia." *Policy Studies* 43, no. 2 (2022): 333-351.

UNODC. *State of Integrity: A Guide on Conducting Corruption Risk Assessments in Public Organizations* (Vienna: United Nations, 2020).

Wibowo, Ari. "Barriers and solutions to cross-border asset recovery." *Journal of Money Laundering Control* 26, no. 4 (2023): 739-750.

Yulius, Yulius. "Perkembangan Pemikiran dan Pengaturan Penyalahgunaan Wewenang di Indonesia (Tinjauan Singkat dari

Perspektif Hukum Administrasi Negara Pasca Berlakunya Undang-Undang Nomor 30 Tahun 2014)." *Jurnal Hukum dan Peradilan* 4, no. 3 (2015): 361-384.

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