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# Implementation of Investigations, Investigations, and Prosecution by the Corruption Eradication Commission Based on Law of the Republic of Indonesia Number 19 of 2019 concerning the Corruption Eradication Commission

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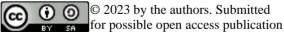
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# **Keywords**

Implementation; Investigation; Prosecution; Corruption Eradication Commission

# **Abstract**

Investigation, inquiry, and prosecution efforts carried out by the Corruption Eradication Commission (KPK) refer to Articles 10, 11, and 12 of Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. The current reality shows that in the field, the implementation of investigations, investigations, and prosecutions in uncovering corruption cases cannot be carried out optimally because they must fulfill the provisions under Articles 10, 11, and 12. It is as intended in Article 6 letter e, the Corruption Eradication Commission has the authority to carry out tapping. Continued in paragraph (2) In carrying out investigative duties as intended in paragraph (1), the Corruption Eradication Commission has the authority to a) order the relevant agencies to prohibit someone from traveling abroad; b) ask the bank or other financial institution for information about the financial condition of the suspect or accused being investigated; c) order banks or other financial institutions to block accounts suspected of being proceeds of corruption belonging to suspects, defendants, or other related parties; d) order the suspect's leadership or superior to temporarily dismiss the suspect from his position; e) request data on the suspect's or defendant's wealth and tax data from the relevant agency; f) temporarily suspending financial transactions, trade transactions, and other agreements or temporarily revoking permits, licenses, and concessions carried out or owned by suspects or defendants who are alleged to be based on preliminary evidence that is sufficiently related



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#### 1. Introduction

Indonesia as a legal state has several types of laws to regulate the actions of its citizens, including the Criminal Law and Criminal Procedure Law (Nita, 2020). These two laws have a very close relationship because essentially criminal procedural law is included in the definition of criminal law. (Sudikno Mertokusumo, 1985) It's just that criminal procedural law or what is also known as formal criminal law is more focused on the provisions that regulate how the state, through its instruments, exercises its right to convict and impose crimes. Meanwhile, criminal law

(material) is more focused on the law that regulates crimes or actions that can be punished with a crime determined by law and on whom the crime can be imposed. (Effendi, 2011)

Criminal procedural law is the totality of legal rules regarding how to implement the provisions of criminal law, if there is a violation of the norms referred to in this provision (Armen, Aprima, Marpaung, & Saragih, 2023). So criminal procedural law was created as a means of enforcing law and justice in realizing an orderly and peaceful life in society (Farahwati, 2019). The realization of Indonesia as a country of law has created laws and regulations, one of which is the Criminal Procedure Code, which is a guideline for seeking and obtaining material truth, namely the complete truth of a criminal case by applying legal provisions (FATHULLAH, 2022) (Ramdani, 2023). honestly and precisely, to find out who the perpetrator is who can be charged with a violation of the law and then request an examination and court decision to determine whether it is proven that a criminal act has been committed and whether the person accused can be blamed.

In Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, Article 1 point 3 formulates the meaning of the Corruption Eradication Commission (KPK), namely the Corruption Eradication Commission, hereinafter referred to as The Corruption Eradication Commission is a state institution within the executive power which carries out the task of preventing and eradicating Corruption Crimes by this Law (Wahyuningrum, Disemadi, & Jaya, 2020) (Putri & Nurwijayanti, 2020).

Law violations that have been rife in Indonesia recently include corruption. Apart from being influenced by the motive or background of the perpetrator, this is also a picture of the decline in the nation's morals. Moral decline, economic pressure, impatience, and hatred are some of the factors that cause corruption. It is so easy for someone to commit a criminal act of corruption and the causes should be investigated. The harshness of life and the fragility of religious education may also be factors in how easily someone can commit criminal acts of corruption. (Gerungan, 2004) Because corruption is closely related to power, corruption can have consequences that are very detrimental to the people. Robert Klitgaard details several consequences of corruption, including: (Nuraini, 2005)

- a. Bribery causes funds for the construction of cheap houses to fall into unauthorized hands.
- b. Commissions for those responsible for procuring goods and services for local governments mean that contracts fall into the hands of unqualified companies.
- c. The police often, because they have been bribed, pretend not to know that there is a crime that they should be investigating.
- d. Local government employees use community facilities for personal interests.
- e. To obtain permits and licenses, community members have to pay kickbacks to officers and sometimes even have to pay bribes so that permits or licenses can be issued.
- f. By giving bribes, community members can violate work safety regulations, health regulations, or other regulations at will, causing danger to the rest of the community.
- g. Local government services are provided only if residents have paid an additional amount of money beyond the official fees.
- h. Decisions regarding land use within the city are often influenced by corruption.
- i. Tax officials extort citizens, or further conspire with taxpayers, giving tax breaks to taxpayers in exchange for bribes.

Eradication of Corruption Crimes is a series of activities to prevent and eradicate the occurrence of criminal acts of corruption through efforts to coordinate, supervise, monitor, investigate, investigate, prosecute, and examine in court, with community participation by the provisions of statutory regulations. Referring to Article 6 of Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, the Corruption Eradication Commission (KPK) is tasked with carrying out: a. preventive measures so that Corruption Crimes do not occur; b. coordination with agencies authorized to carry out the Eradication of Corruption Crimes and agencies tasked with carrying out public services; c. monitoring the administration of state government; d. supervision of agencies authorized to carry out the Eradication of Corruption Crimes; e. inquiry, investigation, and prosecution of Corruption Crimes; and f. actions to implement the judge's determination and court decisions that have obtained permanent legal force.

Corruption is so acute in Indonesia that Azhar stated that corruption is a social disease that is universal and has occurred since the beginning of humankind.(Azhar, 2009) Such a broad impact would be a very serious threat to the survival of the nation and state, even Atmasasmita stated that the problem of corruption was a serious threat to the stability and security of national and international society.(Atmasasmita, 1996) So there is inequality in the portion of income received by various groups of society which is referred to as relative inequality or there is an absolute level of

poverty (absolute poverty).(Atmasasmita., 1995) Of course, those who are disadvantaged are the people at the

1077

grassroots level, who should receive welfare guarantees by the guarantees set out in the constitution.

Referring to the existing reality, a KPK investigator, in exercising his authority to investigate criminal acts of corruption, must refer to the requirements stipulated in Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Commission for the Eradication of Crimes. Corruption Crime. In this way, not all corruption cases can be handled directly, unless they are deemed to have violated one of the provisions contained in the Law, especially if the criminal act of corruption has fulfilled the provisions, where for example the corruption case has caused a state loss of at least IDR 1,000,000,000,000.00 (one billion rupiah), and/or involving law enforcement officials, State Administrators, and other people who are related to Corruption Crimes committed by law enforcement officials or State Administrators.

The problem in this paper is "how is the investigation, inquiry, and prosecution carried out in criminal acts of corruption carried out by the Corruption Eradication Commission?"

## 2. Materials and Methods

The method used in writing this applied paper is a descriptive-analytical method, namely by using data that clearly describes problems directly in the field, then analysis is carried out and then conclusions are drawn to solve a problem. The data collection method is through observation and literature study to obtain solutions to problems in preparing this paper. In line with the research objectives to be achieved, the domain of this research is included in the realm of qualitative research, thus a qualitative approach method will be used. According to Soerjowinoto et al., qualitative methods are methods that emphasize the researcher's understanding process of problem formulation to construct a complex and holistic legal phenomenon.(Petrus Soerjowinoto, 2006)

#### **Approach**

Normative juridical approach, namely the juridical approach method used to examine problems in terms of law and statutory regulations, namely rules that can be used as a basis for studying problems and their legal consequences, in this case namely the Criminal Code (KUHP) and The Criminal Procedure Law (KUHAP), as well as Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission.

A normative juridical approach is applied to certain statutory regulations or written laws relating to the Implementation of Investigations, Investigations, and Prosecution of Corruption Crimes Committed by the Corruption Eradication Commission based on the Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to the Law. Law Number 30 of 2002 concerning the Corruption Eradication Commission. (Soemitro, 1988) The research describes the situation of the object under study, focusing on the Arrangements for the Implementation of Investigations, Investigations, and Prosecution of Corruption Crimes Committed by the Corruption Eradication Commission based on the Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning Corruption Eradication Commission in practice

# 3. Results and Discussions

## Implementation of Investigations to Reveal Corruption Crimes.

The definition of investigation is an effort carried out by the police as an investigator to search for and reveal information or information about an incident that is suspected of being a criminal act or a crime that is suspected of being committed by someone whose identity is not yet known. In the case of an investigation, the investigator collects data or information that must be able to reveal the actual perpetrators of law violations. (Hartono, 2010)

According to Andi Hamzah, regarding investigations, the efforts of investigators to seek information and evidence of perpetrators of criminal acts must be by statutory regulations. The parts of criminal procedural law relating to investigations are as follows:(Hamzah, 2010)

- a. Provisions regarding investigative tools.
- b. Provisions regarding whether an offense has occurred.
- c. Inspection of the scene.
- d. Summoning the suspect or accused.
- e. Temporary detention.
- f. Examination or interrogation.
- g. Minutes (search, interrogation, and onsite inspection).
- h. Foreclosure.
- i. Dismissal of the case.

j. Handing over the case to the public prosecutor and returning it to the investigator to be perfected.

Investigations are carried out immediately after there is a report or complaint of a criminal act or knowledge that a criminal act has occurred. The investigation by civil servant investigators was guided by investigators from the Republic of Indonesia Police.

Two situations need to be considered before an investigation is carried out by members of the police because in investigating criminal acts of theft with violence the efforts are different. These situations include when the identity of the perpetrator is not yet known and the perpetrator is caught red-handed. The following is the handling of a criminal act in its jurisdiction:

The identity of the perpetrator is not yet known.

a. Receive reports about the occurrence of criminal acts.

Reports are divided into 2 types, namely, model A reports, reports submitted by members of the police who are aware of a crime themselves and model B reports, namely reports made by members of the police based on what has been submitted by someone, either a witness or a victim. The reporter is asked for information such as how the incident started when it happened (tempus delicti), where it happened (locus delicti), and what is the proof of ownership so that it is clear whether it meets the elements of a criminal act.

b. Investigate the crime scene or crime scene.

Crime scene processing is one of the investigative activities carried out for identification, looking for witnesses who were at the crime scene, looking for clues, and making sketches of the conditions at the crime scene, so that it is clear what the incident is like. Identification is assisted by the reporter or victim. In this stage, investigators are assisted by technological assistance or assistance.

c. Find out the modus operandi used by the perpetrator.

After investigating the crime scene, police officers then find out the modus operandi used by studying the statements given by victims and witnesses, and also asking for information from detainees and former detainees, especially detainees and ex-detainees regarding acts of corruption.

d. Carrying out investigations within the framework of an investigation.

This investigation was carried out by car detectives or what is called Resmob. At this stage, the investigation is aimed at finding investigative evidence to find and arrest the perpetrators of criminal acts of corruption. These investigative activities include observation, interviews, stalking, undercover, and recording conversations, whether with permission or not. This activity was carried out to collect information. The search was carried out with the assistance of the information network managed by Resmob. The information network managed by Resmob consists of a network between police stations or police stations, a network of informants, and a network of the community.

e. Stage of carrying out coercive measures.

If during investigative activities, members of the police obtain preliminary evidence and find the perpetrator, then coercive measures are taken, such as arrest, followed by a search and confiscation of evidence related to the criminal act of corruption.

In terms of the use of the term investigation in practice, the term detective is more often used. Where the main task is to receive reports and organize and stop suspected people for questioning. This means that this investigation precedes the investigation. The investigation is an action that precedes an investigation. If it is connected to the theory of criminal procedural law as proposed by Van Bemmelen, then this investigation is the first stage in the seven stages of criminal procedural law, which means searching for the truth.(Hamzah, 2010)

Investigation is an inseparable part of the field of investigation. According to the KUHAP Implementation Guidelines, investigation is one of the methods or methods, or tather than an investigative function that precedes other actions, according to Harahap, investigation can be equated with the definition of "investigative action" as an effort to search for and find traces in the form of information and evidence of an event that is suspected of being a criminal act.

The investigation is carried out before the investigation or can be carried out simultaneously with the investigation. Police officers tasked with carrying out investigations are obliged to comply with the principles contained in National Police Regulation (Perpol) Number 6 of 2019 concerning the Revocation of Perkap Number 14 of 2012 concerning Management of Criminal Investigations, namely Legality, Professional, Proportional, Procedural, Transparent, Accountable, Effective, and Efficient, which means that investigators must be able to carry out their duties accurately and quickly, each investigator carries out their duties by their respective legalities and authorities, investigators in carrying out their duties cannot be intervened by anyone, every investigator's actions pay attention to the principle of openness and are informative for the parties. related, and investigators can be held accountable for their actions juridically, administratively, and technically.

Investigation is the stage of resolving a criminal case after an investigation which is the initial stage of finding out whether or not there was a criminal act in an incident. When it is known that a criminal act has occurred, that is when an investigation can be carried out based on the results of the investigation. In investigative actions, the emphasis is placed on the act of "searching for and finding" an "event" that is considered or suspected to be a criminal act. Meanwhile, in investigations, the emphasis is placed on the act of "searching for and collecting evidence".

The law gives special privileges or privileges to investigators to carry out investigative functions such as summoning, examining, arresting, detaining, confiscating, and designating someone suspected of having committed a criminal act as a suspect, however, in exercising these special rights and authorities they must obey and subject to the principle of the right of due process, namely that every person has the right to be investigated and investigated on legal grounds.

Implementation of Investigations, Investigations, and Prosecution of Corruption Crimes Committed by the Corruption Eradication Commission based on Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission.

The definition of investigation is an effort carried out by the police as an investigator to search for and reveal information or information about an incident that is suspected of being a criminal act or a crime that is suspected of being committed by someone whose identity is not yet known. In the case of an investigation, the investigator collects data or information that must be able to reveal the actual perpetrators of law violations. Meanwhile, if the investigation process by the Police is taken over by the Corruption Eradication Commission (KPK), then it must refer to Article 10 of Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, which reads:

#### Article 10

- (1) In carrying out its supervisory duties as intended in Article 6 letter d, the Corruption Eradication Commission has the authority to carry out supervision, research, or review of agencies carrying out their duties and authorities relating to the Eradication of Corruption Crimes.
- (2) Provisions regarding the implementation of supervision duties as intended in paragraph (1) are regulated by Presidential Regulation.

Between Article 10 and Article 11, 1 (one) article is inserted, namely Article 10A, which reads as follows:

Article 10A

- (1) In exercising the authority as intended in Article 10, the Corruption Eradication Commission has the authority to take over the investigation and/or prosecution of perpetrators of Corruption Crimes that are being carried out by the police or prosecutor's office.
- (2) The Corruption Eradication Commission takes over the investigation and/or prosecution as intended in paragraph (1) for the following reasons: a. public reports regarding Corruption Crimes are not followed up; b. the process of handling Corruption Crimes without any resolution or being delayed without justifiable reasons; c. handling of Corruption Crimes is aimed at protecting the real perpetrators of Corruption Crimes; d. handling of Corruption Crimes contains elements of Corruption Crimes; e. obstacles to handling Corruption Crimes due to interference from executive, judicial, or legislative power holders; or f. other circumstances which, according to the consideration of the police or prosecutor's office, make it difficult to handle criminal acts of corruption properly and responsibly.
- (3) If the Corruption Eradication Commission takes over the investigation and/or prosecution, the police and/or prosecutor are obliged to hand over the suspect and all case files along with evidence and other required documents no later than 14 working days, starting from the date of the request of Corruption Eradication Commission.
- (4) The handover as intended in paragraph (3) is carried out by making and signing a handover report so that all duties and authority of the police and/or prosecutor's office at the time of handover are transferred to the Corruption Eradication Commission.
- (5) When the Corruption Eradication Commission takes over the investigation and/or prosecution as intended in paragraph (1), it notifies the investigator or public prosecutor who handles Corruption Crimes.

In particular, the process of inquiry, investigation, and prosecution by the Corruption Eradication Committee (KPK) for perpetrators of criminal acts of corruption, is regulated in Article 11 of Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, which reads:

(1) In carrying out the duties as intended in Article 6 letter e, the Corruption Eradication Commission has the authority to carry out inquiries, investigations, and prosecutions of Corruption Crimes which: a. involving law enforcement officials, State Administrators, and other people who are related to Corruption Crimes committed by law

- enforcement officials or State Administrators; and/or b. involving state losses of at least IDR 1,000,000,000.00 (one billion rupiah).
- (2) If the Corruption Crime does not meet the provisions as intended in paragraph (1), the Corruption Eradication Commission is obliged to hand over the investigation, investigation, and prosecution to the police and/or prosecutor's office.
- (3) The Corruption Eradication Commission supervises inquiries, inquiries, and/or prosecutions as intended in paragraph (2).

### Article 12

- (1) In carrying out investigative and investigative duties as intended in Article 6 letter e, the Corruption Eradication Commission has the authority to conduct wiretapping.
- (2) In carrying out investigative duties as intended in paragraph (1), the Corruption Eradication Commission has the authority to: a. order the agency related to prohibiting someone from traveling abroad; b. ask the bank or other financial institution for information about the financial condition of the suspect or accused being investigated; c. order banks or other financial institutions to block accounts suspected of being proceeds of corruption belonging to suspects, defendants, or other related parties; d. order the suspect's leadership or superior to temporarily dismiss the suspect from his position; e. request data on the suspect's or defendant's wealth and tax data from the relevant agency; f. temporarily suspend financial transactions, trade transactions, and other agreements or temporarily revoke permits, licenses, and concessions carried out or owned by suspects or defendants who are suspected based on sufficient preliminary evidence to be related to the Corruption Crime being investigated; g. request assistance from Interpol Indonesia or other country's law enforcement agencies to carry out searches, arrests, and confiscation of evidence abroad; and h. request assistance from the police or other relevant agencies to carry out arrests, detention, searches, and confiscations in Corruption Eradication cases that are being handled.

Between Article 12 and Article 13, 4 (four) articles were inserted, namely Article 12A, Article 12B, Article 12C, and Article 12D which read as follows:

#### Article 12A

In carrying out prosecutorial duties as intended in Article 6 letter e, prosecutors at the Corruption Eradication Commission carry out coordination by the provisions of statutory regulations.

### Article 12B

- (1) Wiretapping as intended in Article 12 paragraph (1), is carried out after obtaining written permission from the Supervisory Board.
- (2) Obtaining permission as intended in paragraph (1) is carried out based on a written request from the Chairman of the Corruption Eradication Commission.
- (3) The Supervisory Board can provide written permission for the request as intended in paragraph (2) no later than 1 x 24 (one x twenty-four) hours from the time the request is submitted.
- (4) If the Chairman of the Corruption Eradication Commission obtains written permission from the Supervisory Board as intended in paragraph (3), wiretapping is carried out no later than 6 (six) months from the time the written permission is received and can be extended 1 (one) time for the same period.

#### Article 12C

- (1) Investigators and investigators report ongoing wiretapping as intended in Article 12 paragraph (1) to the leadership of the Corruption Eradication Commission periodically.
- (2) Wiretapping as intended in Article 12 paragraph (1) which has been completed must be accounted for by the Leadership of the Corruption Eradication Commission and the Supervisory Board no later than 14 working days from the time the wiretapping is completed.

## Article 12D

- (1) The results of wiretapping as intended in Article 12 paragraph (1) are confidential and are only for judicial purposes in eradicating criminal acts of corruption.
- (2) Wiretapping results that are not related to Corruption Crimes being handled by the Corruption Eradication Commission must be destroyed immediately.
- (3) If the obligations as intended in paragraph (2) are not carried out, the official and/or person who keeps the results of the wiretapping is subject to criminal penalties by the provisions of the laws and regulations.

## 4. Conclusion

The implementation of investigations, investigations, and prosecutions against perpetrators of criminal acts of corruption refers to Articles 10, 11, and 12 of Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the possibility of being investigated by the Corruption Eradication Commission (KPK) must comply with provisions such as involving law enforcement officials, State Administrators, and other people who are related to Corruption Crimes committed by law enforcement officials or State Officials; and/or the criminal act of corruption has caused state losses of at least IDR 1,000,000,000.00 (one billion rupiah).

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