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Legis Ratio Norms Article 64 of Law No. 1 Year 2004 Concerning State Treasure

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Abstract

Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, states firmly that the Treasurer and other officials who have been determined to compensate the state/regional losses in settlements with the dimensions of State Administrative Law may still be subject to administrative sanctions and/or criminal sanctions. And if the treasurer and other officials are processed under criminal law, the criminal decision does not relieve the claim for compensation that has been determined through a settlement with the dimensions of State Administrative Law. Such norms are regulated in Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, of course, has the purpose and intent (ratio legis) of the legislators. Based on research on the minutes of the discussion of the Draft Law no. 1 of 2004 concerning the State Treasury, the legislative ratio of Article 64 paragraph (1) and paragraph (2) in general is 3 (three), namely: as a form of official accountability in carrying out office functions, punishment for Treasurers and Other Officials who are detrimental to State/Regional finances, and realizing the principle of returning State/Regional losses.

Keywords
legis ratio; article 64 paragraphs; law no. 1 of 2004; state treasury

I. Introduction

Law enforcement efforts through a fair (process due process of law) in the field of corruption now involve various elements in the form of law enforcement agencies and institutions outside the state structure such as the independent KPK and various NGOs such as ICW and others. However, the emerging corruption cases are increasing both in quantity and quality. One of the most important instruments in the effort to eradicate corruption is the legal system and judicial process that is objective, fair, transparent and consistent. Therefore, the eradication of corruption must be comprehensive by involving all components of law enforcement officers, the community and other institutions that support the success of eradicating corruption. In eradicating corruption, a settlement is needed either through the enforcement of criminal law, but also a settlement with the dimensions of Administrative Law and a civil dimension. As regulated in Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, states firmly that the Treasurer and other officials who have been determined to compensate the state/regional losses in settlements with the dimensions of State Administrative Law may still be subject to administrative sanctions and/or criminal sanctions. And if the treasurer and other officials are processed under criminal law, the criminal decision does not relieve the claim for compensation that has been determined through a settlement with the dimensions of State Administrative Law.

Such norms are regulated in Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, of course, has the purpose and intent (ratio legis) of the legislators. However, if it is brought to the empirical practice of law enforcement against the norms of the article, many of the treasurers and other officials who are charged with compensation and then subject to administrative sanctions and criminal sanctions cannot complete their obligations to return the compensation that has been determined through claims for compensation. In other words, there are double sanctions for treasurers and other officials who because of their actions cause state/regional financial losses. Sanctions that can be accepted as accountability for their actions are not only compensation (internal settlement), but also imprisonment and severe administrative sanctions up to dishonorable dismissal. Treasurers and other officials, many are no longer able to return the claim for compensation that has been determined through an internal settlement. Because, in criminal sanctions other than imprisonment, the person concerned is also subject to a replacement money sentence, plus administrative sanctions in the form of dishonorable dismissal. In the current era of globalization, the development of criminal acts has spawned new types of crime, transnational crime, one of which is corruption, money laundering, terrorism, human smuggling, human trafficking, and cyber crime. This is very interesting to the attention of the international community (Kartika. 2020).

Departing from such conditions, it becomes important to know what the intent and purpose (ratio legis) of legislators is to apply such norms in Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury. Before outlining the ratio legis, the author will first describe the history of the development of the Indonesian state's financial arrangements, including the history of the birth of three packages of post-reform State Finance Laws, which include: Law no. 17 of 2003 concerning State Finance, Law no. 1 of 2004 concerning the State Treasury, and Law no. 15 of 2004 concerning Audit of State Finance Management and Responsibility.

II. Research Methods

In legal research activities there are several elements used by the author, namely the problem approach is the process of solving or solving problems through predetermined stages so as to achieve research objectives.[5] To discuss the problems contained in this research proposal, the author uses a statute approach approach . The type of legal research used is normative legal research, focusing on legal issues regarding legal certainty in resolving investor disputes with the legal community in the perspective of legal pluralism.

As for legal materials that are authoritative, it means that they have authority consisting of legislation, official records, or minutes in the making and decisions of judges.[6] In this case, namely the laws and regulations relating to the settlement of investor disputes with indigenous peoples in the land sector. On the other hand, secondary legal materials are also used, in the form of all publications on law which are official documents, publications on law, including books, legal journals, and comments on court decisions,[7] as well as tertiary legal materials, namely materials that provide instructions. as well as explanations of primary legal materials and secondary legal materials, such as legal dictionaries and internet articles. Analysis of the data used in writing this legal research is a descriptive analysis method.

III. Results and Discussion

Ratio legis can be interpreted as the reason and purpose why the legislators formulate norms like this. In fact, by finding and analyzing the *ratio legis of* a law, the legal principles used in the law will be known. *The ratio legis* can be found in the Academic Manuscript and/or the Minutes of the Session which contains debates regarding the formulation of a Law. In connection with the writing of this dissertation, the legis ratio to be found is the norm of Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury. Based on research on the minutes of the discussion of the Draft Law no. 1 of 2004 concerning the State Treasury, the *legislative ratio of* Article 64 paragraph (1) and paragraph (2) generally consists of 3 (three), namely:

3.1 As a Form of Official Accountability in the Implementation of the Function of Position

Ratio Legis Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, the first is as a form of accountability of the Treasurer and other Officials in the implementation of office functions. As it is known that Indonesia is a country based on law, all aspects of life in society, nation and state are guided by Pancasila as an ideology, as well as the 1945 Constitution.[8] Legislation or the legal basis for an act becomes the legitimacy of all forms of government action.

The commitment to uphold good governance that has been planned by the government can be disrupted due to fraud, corruption, collusion and nepotism. Deviant actions in the form of unlawful acts such as abuse of authority by the government are contrary to laws and regulations. Abuse of authority is a basic form of cancellation of government actions that are not in accordance with the previously determined authority. Government actions that are contrary to laws and regulations are known normatively in Law no. 30 of 2014 concerning Government Administration.

Authority is always attached to the position, the authority will not appear if a position does not exist. The position contained in a legal body or organization that is public in relation to the administration of the state and in the position of state administrators will always bind the authority in implementing public policies as part of the implementation of state administration. Authority can function if the position is filled or represented by an individual or individual *(natuurlijke persoon).* A person who fills a position in a government agency is referred to as an official or government official who is a civil servant. The general principles of good governance serve as guidelines in the administration of government towards justice, welfare and freedom from violations of regulations, including abuse of authority by officials of the state civil apparatus.[9] This principle functions in implementing government and is guided in carrying out the functions of administrative positions in establishing a policy. Abuse of authority allows conflicts of interest to arise between state officials as the driving force of the government and people who feel disadvantaged from inappropriate use of authority.

The legal consequences of abuse of authority are regulated in Article 19 of Law no. 30 of 2014 namely: "on decisions and/or actions that are determined and/or carried out by exceeding the authority or arbitrarily become invalid if it has been tested and there is a court decision that has permanent legal force". Decisions and/or actions that are determined and/or carried out by mixing authority can be canceled if they have been tested and there is a court decision that has permanent legal force. According to Supandi, abuse of authority has the following characteristics: [10]

1. Deviating from the purpose or intent of an authorization;
2. Deviating from the purpose or intent in relation to the principle of legality;

3. Deviating from the purpose or intent in relation to the general principles of good governance.

Abuse of authority according to Article 3 of Law no. 31 of 1999 which was amended by Law no. 20 of 2021 concerning the Eradication of Criminal Acts of Corruption are:

> Everyone who with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunities or facilities available to him because of a position or position that can harm state finances or the country's economy, is sentenced to a criminal sanction. life imprisonment or imprisonment….".

The element of abusing authority in Article 3 of Law no. 31 of 1999 which was amended by Law no. 20 of 2021 concerning the Eradication of Criminal Acts of Corruption has a different meaning from the abuse of authority in Article 21 paragraph (1) of Law no. 30 of 2014 concerning Government Administration. There are difficulties in distinguishing when a state apparatus commits an unlawful act which is included in the scope of criminal law and when it can be said to have abused authority which is included in the scope of State administrative law.

According to Supandi, explaining that:[11]

> Substantially, the principle of speciality implies that each authority has a specific purpose. Deviations from this principle will give birth to abuse of authority. The parameters of legislation and general principles of good governance are used to prove the instrument or mode of abuse of authority (Article 3 of Law No. 31 of 1999 as amended by Law No. 20 of 2021 on the Eradication of Corruption). Meanwhile, abuse of authority can only be classified as a criminal act if it has implications for state losses or the state economy (except for corruption, bribery, gratification, and extortion), the suspect benefits, the public is not served, and the act is a disgraceful act.

As explained above, abuse of authority can be classified as a crime if it has implications for state losses. The abuse of authority that causes state/regional losses by the treasurer and other officials as intended by Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the State Treasury, then those who do can be held accountable. In the concept of State Administrative Law, according to Philipus M. Hadjon, that:[12]

> The responsibilities of officials in carrying out their functions are distinguished between position responsibilities and personal responsibilities. Position responsibilities with regard to the legality (legitimacy) of government action. Personal responsibility with regard to maladministration in the use of authority and *public services*. The distinction between office responsibility and personal responsibility for government actions has consequences related to criminal liability, civil liability and state administrative liability (TUN). Criminal liability is a personal responsibility.

The comparison between job responsibilities and personal responsibilities is described by Philipus M Hadjon in the following chart:[13]

Table 6. Comparison between Job Responsibilities and Personal Responsibilities

No.	Position	Responsibilities Personal Responsibilities
1.	Focus : Legality (legitimacy) of actions a. Authority; b. Procedure; c. Substance	Focus: Maladministration Bad behavior of officers in carrying out their duties is disgraceful. Among others: a. Arbitrary; b. Abuse of authority.
2.	Parameters: a. Legislation; b. General principles of good governance.	Parameters: a. Regulations; b. General principles of good governance; c. *Code of good administrative behavior* (European Union).
3.	Legal questions: Are there any juridical defects regarding: a. Authority; b. Procedure; c. Substance	Legal question: Was is there maladministration in the act?
3.	The principle of *praesumptio iustae causa* presumption is valid); Every government action must be considered valid until there is a revocation or cancellation	In relation to a criminal act: the principle of presumption of innocence
4.	The principle of *vicarious liability*: applies The	principle of *vicarious liability*: does not apply
5.	Sanctions: administrative, civil	Sanctions: administrative, civil, criminal

With respect to the treasurer, Article 35 paragraph (3) of Law no. 17 of 2003 concerning State Finances states that: "Each treasurer is personally responsible for state financial losses that are under its management". According to Agus Ngadino and Iza Rumesten RS, explaining that:[14]

> In practice, government managers both at the center and in the regions who commit acts against the law and result in state/regional losses can be subject to compensation for the said state losses. In the field of government, parties that may be subject to state/regional compensation are those who have the authority related to the management of state finances, including the President, the minister of finance, ministers/institutional leaders, regional heads, treasurers, non-treasury civil servants, and other officials who have the authority. in the management of state/regional finances. Based on the authority granted according to the provisions of administrative law, according to administrative law, there are three ways to obtain authority, namely attribution, delegation, and mandate.

Article 62 paragraph (1) of Law no. 1 of 2004 concerning the State Treasury states that: "The imposition of state/regional compensation for the treasurer shall be determined by the State Audit Board." Furthermore, in paragraph (2) it is stated that: "If in the examination of state/regional losses a criminal element is found, the BPK will follow up on it in accordance with the applicable laws and regulations." Further provisions regarding the imposition of compensation are regulated in the Law concerning the examination of the management and responsibility of state finances (paragraph 3), namely Law no. 15 of 2004.

It is reaffirmed in Article 64 of Law no. 1 of 2004 on the State Treasury, that:

Paragraph (1): “Treasurers, non-treasury civil servants, and other officials who have been appointed to compensate for the state/regional losses may be subject to administrative sanctions and/or criminal sanctions.

Paragraph (2): "Criminal decisions are not exempt from demands for compensation".

Then, what is meant by treasurer and other officials? Regulation of the Supreme Audit Agency of the Republic of Indonesia Number 3 of 2007 concerning Procedures for Settlement of State Compensation Against the Treasurer, in Article 1 number 1, states that: "Treasurer is any person or entity assigned the task for and on behalf of the state/region, receiving, keeping , and pay/hand over money or securities or state/regional goods”. While the definition of other officials can be found in Article 1 point 4 PP No. 38 of 2016 concerning Procedures for Claiming State/Regional Compensation for Non-Treasury Civil Servants or Other Officials. What is meant by Other Officials according to number 4 are: "State officials and government officials who are not state officials, not including treasurers and Non-Treasury Civil Servants".

To implement the imposition of state compensation on the treasurer as mandated in the provisions of Article 62 paragraph (3) of Law no. 1 of 2004 concerning the State Treasury, Law no. 15 of 2004. Article 22 of Law no. 15 of 2004 concerning Audit of State Finance Management and Accountability, states:

Paragraph (1): BPK issues a decision letter on the determination of the time limit for the treasurer's accountability for cash/goods shortages that occur, after knowing that there is a cash/goods shortage in inventory that causes financial losses. country/region.

Paragraph (2) :The treasurer may file an objection or self-defense to the BPK within 14 (fourteen) working days after receiving the decision letter as referred to in paragraph (1).

Paragraph (3) : If the treasurer does not file an objection or his/her defense is rejected, the BPK shall issue a decree on the imposition of state/regional loss compensation to the treasurer concerned.

Paragraph (4) : The procedure for the settlement of state/regional compensation for the treasurer shall be determined by the BPK after consulting with the government.

Paragraph (5) : The procedure for the settlement of compensation as referred to in paragraph (4) shall also apply to managers of public companies and companies whose shares are wholly or at least 51% owned by the Republic of Indonesia, as long as it is not regulated in a separate law.

Furthermore, Article 22 of Law no. 15 of 2004 concerning Audit of State Financial Management and Accountability, states:

Paragraph (1) : Ministers/heads of institutions/governors/regents/mayors/ directors of state companies and other agencies that manage state finances report settlement

of state/regional losses to BPK no later than 60 (sixty) days after it is known that the loss to the country/region has occurred.

Paragraph (2) : BPK monitors the settlement of imposition of state/regional compensation for civil servants who are not treasurers and/or other officials at state ministries/institutions/regional governments.

Based on the explanation above, the state/regional financial loss carried out by the Treasurer is determined by the BPK and regulated in Law no. 1 of 2004 concerning the Treasury, Law no. 15 of 2004 concerning Examination of State/Regional Financial Management and Accountability and its implementing regulations through BPK Regulation Number 3 of 2007 concerning Procedures for Settlement of State/Regional Compensation for the Treasurer. The imposition of claims for compensation for state/regional financial losses by treasurers and other officials is a form of personal responsibility for officials in carrying out their functions of office who commit unlawful acts. In addition, accountability to treasurers and other officials may also be subject to administrative sanctions and/or criminal sanctions.

The accountability of government officials in the form of returning state losses is also regulated in Article 20 paragraph (6) of Law no. 30 of 2014 Government Administration, namely: "If an administrative error that causes state financial losses occurs because of an element of abuse of authority". Thus what happened was personal responsibility, but based on Article 20 paragraph (5) of Law no. 30 of 2014 Government Administration, states that: "The return of state financial losses will be charged to the Government Agency, if an administrative error that causes state financial losses occurs not because of an element of abuse of authority, thus what happens is the responsibility of the position".

From the point of view of criminal law, Hernold Ferry Makawimbang stated that the offense "is detrimental to state finances" in Articles 2 and 3 of Law no. 31 of 1999 is the most dominant element in proving corruption. Every element of "detriment to state finances" contributes greatly to the fulfillment of the element of criminal acts of corruption, because there is a "deliberate act of harm" in a way that is against the law (*strafbaar feit* or *criminal act*) and there is a consequence of "state financial loss" (*natuur feit).* or *even positive element*) which ultimately enrich oneself, other people or *corporations* which are not their rights but are "financial rights" by the state.[15]

3.2 Punishment Efforts for Treasurers and Other Officials Who Harm State/Regional Finances

Ratio legis Article 64 paragraph (1) and paragraph (2) of Law no. 1 of 2004 concerning the second State Treasury, namely as an effort to punish the Treasurer and Other Officials who harm state/regional finances. Punishment or sanctions against treasurers and other officials who because of their actions are detrimental to the state/regional finances, are not only subject to sanctions for claiming to compensate the state/regional losses but may also be subject to administrative sanctions and/or criminal sanctions. Regarding administrative sanctions and/or criminal sanctions, the authors can describe as follows:

a. Administrative Sanctions

Administrative sanctions are regulated in Law no. 30 of 2014 concerning Government Administration. Article 80 of Law no. 30 of 2014 concerning Government Administration, states:

Paragraph (1) :

Government Officials who violate the provisions as referred to in Article 8 paragraph (2), Article 9 paragraph (3), Article 26, Article 27, Article 28, Article 36 paragraph (3), Article 39 paragraph (5), Article 42 paragraph (1), Article 43 paragraph (2), Article 44 paragraph (3), Article 44 paragraph (4), Article 44 paragraph (5), Article 47, Article 49 paragraph (1), Article 50 paragraph (3), Article 50 paragraph (4), Article 51 paragraph (1), Article 61 paragraph (1), Article 66 paragraph (6), Article 67 paragraph (2), Article 75 paragraph (4), Article 77 paragraph (3), Article 77 paragraph (7), Article 78 paragraph (3), and Article 78 paragraph (6) are subject to light administrative sanctions.

Paragraph (2) :

Government officials who violate the provisions as referred to in Article 25 paragraph (1), Article 25 paragraph (3), Article 53 paragraph (2), Article 53 paragraph (6), Article 70 paragraph (3), and Article 72 paragraph (1) are subject to moderate administrative sanctions.

Paragraph (3) : Government officials who violate the provisions as referred to in Article 17 and Article 42 are subject to severe administrative sanctions.

Paragraph (4) : Government officials who violate the provisions as referred to in paragraph (1) or paragraph (2) that cause losses to state finances, the national economy, and/or damage the environment are subject to severe administrative sanctions.

Sanctions against treasurers and other officials who because of their actions are detrimental to the state/regional finances, the sanctions that can be applied are severe administrative sanctions as stipulated in Article 80 paragraph (4) of Law no. 30 of 2014 concerning Government Administration, states that: "Government officials who violate the provisions as referred to in paragraph (1) or paragraph (2) that cause losses to state finances, the national economy, and/or damage the environment are subject to severe administrative sanctions".

Article 81 of Law no. 30 of 2014 concerning Government Administration, states:

Paragraph (1) :

The light administrative sanctions as referred to in Article 80 paragraph (1) are in the form of:

a. verbal reprimand;
b. written warning; or
c. Postponement of promotion, class, and/or position rights.

Paragraph (2) :

Medium administrative sanctions as referred to in Article 80 paragraph (2) are in the form of:

a. Payment of forced money and/or compensation;
b. Temporary dismissal by obtaining office rights; or
c. Temporary dismissal without obtaining office rights.

Paragraph (3) :

Severe administrative sanctions as referred to in Article 80 paragraph (3) in the form of:

a. Permanent termination by obtaining financial rights and other facilities;
b. Permanent termination without obtaining financial rights and other facilities;
c. Permanent dismissal by obtaining financial rights and other facilities and being published in the mass media; or
d. Permanent dismissal without obtaining financial rights and other facilities and being published in the mass media.

Paragraph (4) :

Other sanctions are in accordance with the provisions of laws and regulations.

With consideration to implement the provisions of Article 84 of Law no. 30 of 2014 concerning Government Administration, which states that: "Further provisions regarding the procedure for imposing administrative sanctions as referred to in Article 80, Article 81, Article 82, and Article 83 are regulated by Government Regulation", then President Joko Widodo on October 31 2016 has signed PP No. 48 of 2016 concerning Procedures for Imposing Administrative Sanctions to Government Officials. This Government Regulation regulates the procedures for the imposition of Administrative Sanctions for Government Officials which include: "Government Officials who carry out Government functions within the scope of the executive, judicial, legislative, and other Government Officials who carry out Government Functions". The Administrative Sanctions regulated in Article 4 of this Government Regulation are the same as those stipulated in Article 81 of Law no. 30 of 2014 concerning Government Administration, which consists of: a). Light administrative sanctions; b). Moderate administrative sanctions; and c). Heavy administrative sanctions.

Article 12 paragraphs (4), (5), (6) according to PP No. 48 of 2016 on Procedures for the Imposition of Administrative Sanctions on Government Officials, states that: “In the event of Administrative Violations committed by the regent/mayor, the Official Authorized to impose Administrative Sanctions is the governor. In the event of an Administrative Violation committed by the governor, the Official Authorized to impose Administrative Sanctions is the minister who conducts domestic government affairs. In the case of Administrative Violations committed by the minister, the Official in charge of imposing Administrative Sanctions is the President ". Affirmed in accordance with PP No. 48 of 2016 on Procedures for the Imposition of Administrative Sanctions on Government Officials, in the event that Officials authorized to impose administrative sanctions do not impose administrative sanctions on Government Officials who commit administrative violations, the authorized officials are subject to administrative sanctions by their superiors. Administrative sanctions as referred to are the same as the types of administrative sanctions that should be imposed on government officials who commit administrative violations. Supervisors, as intended, also impose administrative sanctions on government officials who commit administrative violations.

b. Criminal Sanctions

As described above, the Treasurer and other officials who have been appointed to compensate the state/region may be subject to administrative sanctions and/or criminal sanctions if proven to have committed administrative and/or criminal violations. With regard to criminal sanctions for treasurers and other officials who due to their actions cause financial loss to the State/region, then in Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes is classified as a type of crime detrimental to the finances of the State/ region.

Corruption delinquency regulations that contain elements of State financial losses in Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes, namely in Article 2 paragraph (1) and Article 3, states that:

Article 2 paragraph (1):

> Any person who unlawfully commits an act of enriching himself or others or a corporation that may harm state finance or state economy, punishable by life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of RP. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

Article 3:

> Any person who for the purpose of benefiting himself or others or a corporation, abuses the authority, opportunity or means available to him due to his office or position which may harm the state finances or the state economy, shall be punished with life imprisonment or most short of 1 (one) year and a maximum of 20 (twenty) years and a minimum fine of Rp. 50,000,000.00 (fifty million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

From the formulation of Article 2 paragraph (1) and Article 3 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes, corruption crimes aspects that harm the state's finances can be detailed into three classifications, namely:

1. Unlawful criminal acts commit acts of enriching oneself or others or a corporation that may be detrimental to the state's finances or the state's economy.
2. Criminal acts for the purpose of benefiting oneself or others or a corporation that may harm the finances of the State.
3. The criminal act of abusing the authority [16], opportunity or means available to him due to position or position that can harm the state finances or the state economy.

In its development, the formal delicacy adopted in Article 2 paragraph (1) and Article 3 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes has shifted into a material crime, due to the request for a material test on the word "can" before the phrase "detrimental to the country's finances and economy". In the end, the Constitutional Court decided in Amar Decision of the Constitutional Court Number 25/PUU-XIV/2016, stating: "the word can be in Article 2 paragraph (1) and Article 3 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption is contrary to the 1945 Constitution and has no binding legal force ". The implication is that the corruption crime that has been classified as a formal crime has turned into a material crime that requires a consequence, that is, the element of state financial loss must be calculated with certainty. In its decision, the Court held that Article 2 paragraph (1) and Article 3 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes related to the application of elements detrimental to the state's finances has shifted by emphasizing the existence of consequences (material delinquency). That is, the element of detrimental to the state's finances is no longer understood as an estimate (*potential loss*), but must be understood to have actually occurred or real (*actual loss*).

3.3 Realizing the Principle of State/Regional Loss Reimbursement

Various efforts are made by the government to carry out development in various fields, but development programs are often hampered due to various deviations from the authority of government officials that have the potential to harm the state's finances/state economy. Therefore, the establishment of Law No. 1 of 2004 on the State Treasury is based on the principle of settling state financial losses. To avoid the occurrence of financial losses of the state/region due to illegal actions or negligence of a person, in Law No. 1 of 2004 on the State Treasury is regulated with provisions on the settlement of state/regional losses. Therefore, in Law No. 1 of 2004 on the State Treasury, stipulates that any state/regional losses caused by acts of violation of the law or negligence of a person must be compensated by the guilty party. With the settlement of these losses, the state/region can be recovered from the losses that have occurred.

In relation to that, each leader of the state ministry/ institution/ head of the regional apparatus work unit must immediately make a claim for compensation after knowing that in the state ministry/ institution/ regional apparatus work unit in question there is a loss. The imposition of state/regional compensation to the treasurer is determined by the

Financial Inspection Agency, while the imposition of state/regional compensation to non -treasurer civil servants is determined by the minister/head of the institution/governor/regent/mayor. Treasurers, non -treasurer civil servants, and other officials who have been designated to compensate state/regional losses may be subject to administrative sanctions and/or criminal sanctions if proven to have committed administrative and/or criminal violations.

Settlement of State/district losses by claiming compensation against the treasurer and other officials enshrined in Law No. 1 of 2004 on the State Treasury is the recovery of State/regional losses with the dimensions of State Administrative Law whose completion is done internally and in principle oriented to the recovery of State financial losses, and can be applied cumulatively with other sanctions, namely criminal, administrative and civil sanctions.

From the above explanation, it can be concluded that the legal ratio of Article 64 paragraph (1) and paragraph (2) of Law No. 1 of 2004 on the State Treasury as an effort to realize the principle of reimbursement of state/regional losses. If you pay attention to the sound of the article, it seems that lawmakers are serious and have a commitment in terms of eradicating the crime of corruption. so, the norm of Article 64 paragraph (1) and paragraph (2) of Law No. 1 of 2004 on the State Treasury not only stops the claim for damages, but can also be subject to administrative sanctions and/ or criminal sanctions. It is even more emphatic that a criminal verdict does not exempt from a claim for damages.

The principle of reimbursement of State/regional losses as a government effort to recover State wealth as a result of corruption, is not only regulated in Law No. 1 of 2004 on the State Treasury. Law enforcement of corruption offenses through the recovery of financial losses of the State/region is also regulated in Law No. 31 of 1999 Jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes. In the enforcement of the criminal law of corruption that harms the state finances or the state economy, criminal law instruments and civil law instruments can be used.

IV. Conclusion

Based on the discussion in the previous chapter, the author can conclude that the ratio of Legal norms Article 64 of Law Number 1 of 2004 on the State Treasury, includes:

1. As a form of accountability of the Treasurer and other officials in the implementation of office functions. As it is known that Indonesia is a country based on law, then all aspects of life in society, nation and state, guided by Pancasila as an ideology, and the 1945 Constitution. Legislation or legal basis for an act becomes the legitimacy of all forms of government action.
2. As a punitive effort for the Treasurer and Other Officials who are detrimental to the finances of the state/region. Punishment or sanctions against the treasurer and other officials whose actions are detrimental to the finances of the State/region, are not only subject to sanctions for claims to compensate the State/region but may also be subject to administrative sanctions and/or criminal sanctions.
3. As an effort to realize the principle of reimbursement of state/regional losses. If you pay attention to the sound of the article, it seems that lawmakers are serious and have a commitment in terms of eradicating the crime of corruption. Thus, the norms of Article 64 paragraph (1) and paragraph (2) of Law Number 1 of 2004 on the State Treasury not only stop the claim for damages, but can also be subject to administrative sanctions and/ or criminal sanctions. It is even more emphatic that a criminal verdict does not exempt from a claim for damages.

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