

Research Article

Judge's Considerations in Issuing a Decision Stating That the Indictment Is Null and Void: A Study in Tangerang District Court, Indonesia

Rahman Amin* , **Gatot Efrianto** , **Anggreany Haryani Putri** , **Lidya Novega** 

Faculty of Law, Bhayangkara University Jakarta, South Jakarta, Indonesia

Abstract

This article examines the judge's considerations in the court in issuing an interlocutory ruling stating that the indictment is null and void where the reason is not regulated in the Criminal Procedure Code carried out by the judge based on the interpretation of the applicable legal provisions, and how to follow up on the handling of cases that have obtained an interlocutory decision from the judge declaring the indictment null and void where there are no provisions in the Criminal Procedure Code regarding the return of case files that has been fully disclosed to the investigator. This research is normative legal research with a legislative approach and a case approach. The results of the research are, First, the judge's consideration in issuing an interlocutory ruling that declares the indictment null and void because there has been a pretrial decision that cancels the suspect's status at the investigation stage conducted by the judge based on legal findings through a systematic legal interpretation method of the provisions of the Criminal Procedure Code. Second, the follow-up to the handling of cases that have received an interlocutory decision that cancels the indictment can still be amended to be submitted back to the trial, but for cases related to the improvement of the evidence used by the investigator in determining the suspect which is the authority of the investigator, the case cannot be returned to the investigator because there is no legal basis that regulates it in the Criminal Procedure Code. So that to provide legal certainty, the case can be stopped.

Keywords

Judge, Consideration, Decision, Indictment, Criminal Justice

1. Introduction

Constitutionally, Indonesia is a rule of law according to Article 1 paragraph (3) Constitution. [1]. According to Philipus M. Hadjon, the rule of law is an ideal form of state through the dialectical and revolutionary process of the development of human civilization from time to time that opposes abuse of power. [2]. In the rule of law, the principle of legality and protection of human rights applies, where the state of law in a

narrow sense means that the power of the state is limited by the principle of legality so as not to act arbitrarily. In a broad sense, the state of law guarantees equality before the law to create a balance between state power and the protection of basic human rights of citizens. [3].

The protection of human rights is an integral part of the administration of the state in order to realize justice and equal

*Corresponding author: rahman.amin2013@gmail.com (Rahman Amin)

Received: 25 December 2025; **Accepted:** 7 January 2026; **Published:** 23 January 2026



Copyright: © The Author(s), 2026. Published by Science Publishing Group. This is an **Open Access** article, distributed under the terms of the Creative Commons Attribution 4.0 License (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

treatment, where the protection of human rights is an indicator of the guarantee of fair treatment by the state for every citizen. [4]. In Indonesia's rule of law based on Pancasila, law has an important role in achieving the goals of the nation and state, therefore law needs to be built in a sustainable manner so that it can become a means of development and renewal of the life of the community, nation and state. [5].

To achieve the goals of the nation and state of Indonesia, law enforcement is important to overcome criminal acts that occur in life, so that people can be free from crime. According to Sudikmo Mertokusumo, the purpose of law enforcement is to create an orderly order of community life, and balance in people's lives. [6]. Satjipto Rahardjo stated that in essence, law enforcement is an effort to realize the idea of law, namely justice, certainty and legal usefulness into reality, which is carried out by institutions or bodies that are given tasks and authorities by the state according to the applicable legal provisions. [7].

According to Muladi, law enforcement efforts through the criminal justice system are a criminal justice network that uses material and formal criminal law [8]. Marjono Reskodiputro argues that the criminal justice system aims to prevent the public from becoming victims of crime and solve crimes that occur, where the criminal justice system consists of four components, namely the police, the prosecutor's office, the court and the penitentiary [9].

The implementation of the criminal justice system in Indonesia is based on Law Number 8 of 1981. [10]. Barda Nawawi Arif stated that the criminal justice system is a system of law enforcement powers, namely the power to investigate, prosecute, adjudicate and execute decisions as an integrated criminal law enforcement system [11]. The judicial power as a sub-system of criminal justice is constitutionally regulated in Article 24 paragraph (3) of CRI, that judicial power is exercised by the Supreme Court and the judiciary under it, as well as by the Constitutional Court.

According to Shimon Shetreet, the indicators of independent judicial power are the independence of judges in deciding cases, personal independence of judges, internal independence in the court, and collective independence. [12]. In criminal justice, according to Article 1 number 8 of CPC, a judge is a judicial official who has the authority to adjudicate criminal cases according to the law. Broadly speaking, judges' decisions are influenced by two streams, namely the conservative school that is only based on written regulations (legisms) that does not recognize unwritten law, and the progressive school that is not only based on written law, but also on unwritten law and the experience of judges. [13].

According to Article 5 paragraph (1) of Law Number 48 of 2009 [14], that judges are obliged to explore legal values in society, where judges adjudicate cases based on written law. However, if it is inadequate, then the judge searches and finds his own law from other sources of law, namely customs, doctrines, tracts, jurisprudence. [15]. One example of legal finding by a judge in criminal justice is in the case of a criminal

act in the investment sector using the Smartx Net 89 trading robot application which shocked the people of Indonesia in 2023, where the victims reached thousands of people with a loss value of hundreds of billions of rupiah, with the defendants including Mr. Deddy Iwan, Mr. Ferdi Iwan, and Mr. Alwyn Aliwarga.

The case has obtained an Interlocutory Decision of the Tangerang District Court [16], with the ruling stating that the prosecution of Defendants is unacceptable and the Indictment Number: Reg. Case PDM-77/M.6.16/EKu.2/08/2023 dated September 27, 2023 is null and void based on the pretrial decision No. 99. [17], and pretrial decision No. 102 [18], which cancelled the determination of the suspects of the defendants.

Normatively, according to Article 143 paragraphs (2) and (3) of the CPC, the indictment is null and void if it does not meet the requirements of a meticulous, clear and complete description of the criminal act charged against the defendant, and does not regulate the reason for the indictment to be null and void because the determination of the suspects of the defendants has been cancelled through a pretrial verdict. For this matter, it is important to study to find out what the Tangerang District Court judge considered in issuing an interlocutory ruling stating that the indictment is null and void where the reason is not regulated in the Criminal Procedure Code, and how to follow up on the handling of cases that have received an interlocutory ruling stating that the indictment is null and void.

2. Research Method

This research is normative legal research, namely research by examining regulations, docs or written legal materials [19]. Normative legal research is carried out by researching library materials or secondary materials. [20]. Normative legal research examines written legal regulations in the form of legal norms or rules. [21]. According to Jan Smit, doctrinal law research aims to systematically explain legal principles, concepts, and rules including their relationships in order to find solutions to the gaps that occur. [22].

The approach of this research is a legislative approach by examining the laws and regulations related to the problem being studied. [23], and a case approach by examining the application of legal norms or rules to the case that is the object of research. [24]. This research data consists of secondary data and primary data, where secondary data is obtained through literature research, namely primary legal materials in the form of written regulations, court decisions, secondary legal materials, namely literature, research results, reference books or articles, and tertiary legal materials, namely legal dictionaries. [20]. While the primary data comes from the research location related to the problem being researched.

This research uses one of the decisions of the Tangerang district court which is the object of research because it is related to the problems raised, where the legal material is studied based on the provisions of the applicable laws and regulations in Indonesia, and supported by other legal sources,

namely the decision of the constitutional court as jurisprudence, and the opinion of legal experts as doctrine.

Secondary data collection techniques through literature research by tracing and collecting written legal materials related to the problem being researched. [25]. Literature research as a secondary data collection tool by analyzing the content of written legal materials. [26]. Meanwhile, the primary data collection technique is through field research, namely interviews with research samples that have been determined from the research population to obtain information related to the problem being researched. [27]. The data analysis technique is qualitative juridical, where the data from the research is described in a regular, logical, effective and systematic manner so that it can be understood and conclusions drawn. [28]. Previous research data is classified according to its type, then described and analyzed, so that conclusions can be drawn. [29].

3. Result and Discussion

3.1. Overview of Judicial Power, Criminal Justice, and Judges' Decisions

Independent judicial power is guaranteed in Article 24 paragraph (1) of CRI, and Article 1 number 1 and Article 3 paragraph (3) of JP. Similarly, in international law, namely Article 10 of the Universal Declaration of Human Rights, that everyone has the right to a fair, free and impartial judiciary, and in Article 14 paragraph (1) of the International Covenant on Civil and Political Rights, that an authorized, free and impartial judicial body is established according to the law.

The judicial power in a country can be reviewed from two aspects, namely the institutional aspect in the form of the types of judicial institutions that have the authority to adjudicate cases, and the functional aspect in the form of various functions that are given authority according to the law. [30]. The principle or core of judicial power, namely the independence of judges, means that it is free from the intervention of other branches of power, and functionally free in examining and deciding cases without interference from other powers, such as politics or economics. [31].

Judges' independence is a condition for the realization of the ideal of the state of law, but it does not mean the privilege of judges, but the rights inherent in judges in carrying out justice. [32]. An independent judiciary must be supported by the freedom of judges in carrying out the judiciary without interference from other parties, including the person in the case, where the judge's decision is made based on legal facts, not influenced by outside parties, or personal interests, so that the judge's decision is based on the truth. [33].

The criteria to ensure the independence of judges are the method of appointment of judges, the length of their tenure, the existence of guarantees in adjudicating cases, and how the judiciary looks in adjudicating and deciding cases [34]. The freedom of judges to adjudicate cases is a manifestation of the

state of law, where judges are free from influences that come from outside the judge who can influence the judge in making decisions. [35].

Oemar Seno Adji stated that the freedom of judges is a very important authority inherent in judges in applying the applicable legal provisions to a concrete event in society without any influence from any party [36]. Likewise, Bagir Manan, argues that the independence of judicial power is inherent and becomes the nature of judicial power that is free from the interference of other powers. [37].

Then, Bagir Manan stated that the purpose of an independent judiciary is necessary to guarantee and protect individual freedom, it is necessary to prevent government administrators from acting arbitrarily and oppressively, it is necessary to assess the validity of a law and regulation so that the legal system can be properly implemented and enforced [38].

Furthermore, regarding the judiciary, it is an institution formed to enforce the law, where the judiciary is an absolute requirement in every country of law to enforce the law fairly, and provide legal certainty for the community [39]. According to David Storey, the judicial institution is a pillar that supports the upholding of the sovereignty of the state of law, where the judiciary as an institution is tasked with giving direction to the nation's civilization through fair law enforcement. [40].

Satjipto Rahardjo said that the important role of the judiciary as the only formal institution mandated by the state to resolve disputes that occur in society, where the judiciary is an option to seek justice. [41]. The judiciary is one of the elements to restore the balance of the order of people's lives through independent, fair and impartial law enforcement against any violation of legal provisions. [42].

The judiciary has a sacred mission not only to uphold the law for the sake of the law, but for the sake of justice for individuals, communities, nations and countries and even justice for the sake of God Almighty so that a safe and peaceful life is created. [43]. According to Mochtar Kusumaatmadja and B. Arief Sidharta, the important position of the judiciary is not only as an institution that adjudicates cases, but in essence complements written regulations through the formation and discovery of laws [44]. In the criminal justice process, the judge is faced with the task of adjudicating the case based on legal evidence and facts, then the judge will issue a verdict on the convictions and legal considerations he has taken [45].

Furthermore, regarding the verdict, Sudikno Mertokusumo stated that the judge's decision is a statement by the judge who is given authority and pronounced in front of the court to end or settle a case. [46]. According to Hans Kelsen, the judge's decision is the application of legal norms to a case that is being tried, and can also give birth to general provisions in the same case in the future [47].

The judge's decision aims to end or settle the case, where the judge acts on behalf of the state which must protect the community, therefore the judge must impose a fair verdict. [48]. In his ruling, the judge uses introduction for justice based on the One Godhead, which means that the judge will be held

accountable, both to himself, the community, the nation and the state, as well as to God Almighty.

The judge's decision can be interpreted as the judge's crown, where the judge's self-esteem and authority can be seen from his decision, the quality of the judge's decision reflects the judge's intelligence in formulating his considerations in the decision. [49]. According to Sudikno Mertokusumo, the judge's consideration is the part that becomes the legal basis for the judge in deciding the case, as a direct consideration of the subject matter of the case, namely the rule of law. [50].

Furthermore, Sudikno Mertokusumo stated that the verdict has important elements as a condition, namely being pronounced in an open hearing, handed down through a legal process, in a conclusive form and to resolve the case. [51]. Normatively, the term of the decision of Article 1 number 11 of the Criminal Code, which is handed down by the judge according to the law. According to Lilik Mulyadi, a verdict in a criminal case is handed down by the judge after the process and procedures of the criminal procedure law that contain a criminal verdict, or are free and free from lawsuits made in written form. [52].

Fearn and Franklin stated that in general, judges in court make decisions based on legal factors, namely the offense committed, the criminal record of the perpetrator, or the conditions accompanying the perpetrator. In addition, there are also non-legal factors, namely the condition of the victims of the crime. [53].

In general, the judge's decision contains juridical considerations, namely the judge's consideration based on the legal facts revealed in front of the trial in court, and these legal facts are linked to the law that has been stipulated as a matter that must be contained in the judge's decision. [54]. The judge provides legal arguments based on the evidence at trial submitted by the public prosecutor to prove his claim, or the evidence from the defendant who refutes the claim, where the judge will assemble in a legal consideration of the case. [55].

A judge's decision is a decision taken from a normative point of judicial theory to decide a case as the application of legal norms to a concrete case or by way of legal interpretation by a judge. [56]. According to Artidjo Alkostar, that the judge's decision must provide an authoritative solution means providing a solution, containing efficiency, in accordance with the objectives of the law, containing aspects of stability, and must provide justice. [57].

Judges' decisions are not only the trumpet of laws that apply written law, but judges must be able to find the law by exploring the values of justice in society as a consideration in making decisions [58]. A decision that can become jurisprudence if it contains the judge's consideration, namely explaining the actual legal basis for consideration, explaining rational reasons based on conclusions and legal rules, and based on carefully considered facts. [59].

From the perspective of the court bureaucracy, the judge's decision is related to three criteria, namely, effectiveness that reflects the answer to community problems, efficiency, which

is the necessary financing, and honesty, which is the attitude of the judiciary in adjudicating and deciding cases legally and morally. [60].

Based on the above descriptions, a correlation can be drawn, that judges as the executor of judicial power who carry out criminal justice in Indonesia, have independence in examining and deciding criminal cases in court, where with their authority, judges can search and find the law by interpreting the applicable legal provisions to realize the legal purpose, namely certainty, Justice and Utility.

3.2. Analysis of the Judge's Considerations in Issuing an Interlocutory Ruling Stating That the Indictment Is Null and Void

To examine the judge's consideration in issuing an interlocutory ruling stating that the indictment is null and void, the author takes one of the examples of alleged criminal acts in the field of investment through the Smartx Net89 trading robot application with the defendants including Mr. Deddy Iwan, Mr. Ferdi Iwan, and Mr. Alwyn Aliwarga for allegedly violating the provisions of the Criminal Code, the law on information and electronic transactions, Law on Fund Transfer, Law on Banking, Law on Consumer Protection, Law on Trade, and Law on Prevention and Eradication of Money Laundering.

The case has been pursued by a pretrial lawsuit from the defendant and his legal representative at the South Jakarta District Court, and has obtained a Pretrial Decision, namely Decision No. 99, and Decision No. 102, which stated that the determination of suspects against Mr. Deddy Iwan and Mr. Ferdi Iwan was invalid.

Even though there has been a pretrial decision, the Public Prosecutor still delegated the case to the Tangerang District Court, and the judge has tried and handed down the Tangerang District Court Interlocutory Decision No. 1545, with Defendant I Deddy Iwan, Defendant II Ferdi Iwan, and Defendant III Alwyn Aliwarga, with its verdict stating that the Indictment Number: Reg. Case PDM-77/M.6.16/EKu.2/08/2023 dated September 27, 2023 null and void.

One of the judge's considerations in issuing the interlocutory ruling is that by paying attention to the principles of justice and legal certainty, the judge is of the opinion that the indictment prepared based on the minutes of the investigation is invalid and the determination of the suspect who is declared invalid according to the law results in the indictment becoming null and void, other than that charging a person who no longer holds the status.

Regarding the judge's consideration, that normatively the provisions on the indictment are declared null and void by the judge are regulated in Article 143 paragraphs (2) and (3) of CPC, in essence that the indictment does not meet the formal requirements and material requirements, namely a careful, clear, and complete description of the criminal act charged, then the indictment is null and void.

Thus, in the Circular Letter of the Attorney General of the

Republic of Indonesia Number: SE-004/J.A./11/1993 concerning the Preparation of Indictments, Point IV Requirements for Indictments, basically that the formal requirements of the indictment must contain the identity of the defendant and must be dated and signed by the public prosecutor. Meanwhile, the material requirements must contain a careful, clear and complete description of the criminal act charged by mentioning the place and time when the criminal act was committed.

The legal remedy that can be taken by the defendant against the public prosecutor's indictment as stipulated in Article 156 paragraph (1) of CPC, basically that the defendant or his legal counsel raises an objection to the public prosecutor's indictment vein related to the competence to adjudicate, the indictment cannot be accepted, or the indictment must be cancelled, then the judge will make a decision.

Based on the provisions of the article, the judge's consideration in the Tangerang District Court's Interlocutory Decision Number: 1545, which handed down an interlocutory ruling based on the consideration that the determination of the suspect against the defendant had been cancelled through the pre-trial decision of the South Jakarta District Court, so that this is a reason that is not regulated in Article 143 paragraphs (2) and (3), and Article 156 paragraph (1) of CPC.

This means that in examining the case of Defendant I Deddy Iwan, Defendant II Ferdi Iwan, and Defendant III Alwyn Aliwarga with the Tangerang District Court Interlocutory Decision Number: 1545, the judge has made a legal finding (*rechtvinding*) carried out based on Article 5 paragraph (1) and Article 10 paragraph (1) of JP.

In this regard, in general, judges as judicial administrators have the freedom to make decisions based on the law and are free from the intervention of executive and legislative powers, where judges need to receive protection from the law for decisions that are not popular with society or politics [61]. In the case of judges making legal discoveries, Paul Scholten argues that judges can make legal discoveries that are different from just applying rules in concrete cases, where judges often interpret or concretize legal norms on the real cases being tried. [62].

Likewise, Sudikmo Mertokusumo's view that judges in applying the law can concretization the law from general regulations. [63]. This means that, in adjudicating the case of Defendant I Deddy Iwan, Defendant II Ferdi Iwan, and Defendant III Alwyn Aliwarga the judge, the judge made legal findings in applying general legal rules to concrete events in the case.

In adjudicating the case, the judge has systematically interpreted Article 1 number 14 of CPC, essentially that the suspect is a person who, because of his deeds and actions, and based on two pieces of evidence, should be suspected of being the perpetrator of a criminal act, and Article 1 number 15 of CPC, that the defendant is a suspect who is prosecuted, examined and tried at the court session, and Article 50 paragraph (2) of

CPC, that the suspect has the right to have his case immediately examined in court.

Based on this systematic interpretation, in his consideration, the judge concluded that a person can only be prosecuted, examined and tried in court if he holds the status of a suspect. Then the judge considered that because Defendant I Deddy Iwan, Defendant II Ferdi Iwan no longer held the status of a suspect, the Public Prosecutor did not have the authority to prosecute Defendant I Deddy Iwan, Defendant II Ferdi Iwan to be examined and tried in court.

In this regard, according to Sudikmo Mertokusumo, systematic interpretation is the interpretation of written regulations by connecting them with other regulations in the entire legal system, where the law is seen as a single system, and does not stand alone. [63]. When interpreting legal provisions, the judge must explain in detail the matters underlying his conclusion based on the law, where the judge not only quotes articles in the law, but there must be a logical explanation legally. [64].

According to Ronald Dworkin, the interpretation of law is carried out based on the values contained in legal norms, especially the value of justice which is the main principle in society, and also considers other related principles such as equality and honesty. [65]. The judge's subsequent interpretation in adjudicating the case, the judge systematically interpreted the relationship between the investigation process and the prosecution that has a connection, where the public prosecutor's indictment is made based on the investigation case file, so that with the cancellation of the suspect status, the public prosecutor can no longer make an indictment against the defendant and transfer the case to the court.

Another most important thing from the judge's consideration in the case is that the judge made a legal finding related to the reason for determining the invalidity of the suspect's status on the defendant as an object of execution, considering that the provisions of Article 156 paragraph (1) and Article 143 paragraph (2) of CPC, do not mention that the determination of the invalidity of the suspect's status on the defendant is an object of objection or exception that can be submitted by the defendant or his legal advisor.

The judge considered that by paying attention to the principles of justice and legal certainty, the panel of judges was of the opinion that the indictment prepared based on the Investigation Report was invalid and the determination of the suspect was declared invalid according to the law, resulting in the indictment becoming null and void, besides that charging a person who no longer holds the status of a suspect is a form of injustice.

Related to this, that in the judiciary, judges are not only the mouthpiece of the law (*la bouche de la loi*) according to its sound, but judges can also see the value contained in it through the discovery of the law so that they can full fill the justice of society. [66]. In the tradition of civil law, legal discovery is a need for judges in dealing with concrete cases because the law is never complete or perfect, so the principle of *ius curita novit*

develops, that judges are considered to understand the law, and should not reject the case on the grounds that there is no law. [67].

In this regard, Cass R. Sunstein argued that the judge's decision was influenced by the incompleteness of the rule of law, so that the judge was more free to apply the rule, and provided the opportunity to interpret based on his thinking in making decisions. [68]. Legal finding by judges is inevitable, because legal regulations are not all clear and adequate, there is even no law yet, so judges must seek and find their laws in deciding the case, because legal developments cannot keep up with the dynamics of very rapid community development. [40].

The search and finding of law by judges is not only sourced from written law, but also from unwritten law, namely values that grow and develop in people's lives. [69]. Thus, the discovery of law by the judge who tried the case of Defendant I Deddy Iwan, Defendant II Ferdi Iwan can be categorized as a progressive legal step.

Satjipto Rahardjo argues that progressive law is a correction to the weakness of the modern legal system that is very bureaucratic and procedural, where progressive law aims to protect the public on an ideal law and not a QOU status, and make law and the judiciary a moral institution. Progressive law requires a legal way that actively seeks and finds new avenues, which are creative and innovative to break through the impasse and stagnation. [70].

Thus, the judge who tried the case has made a legal breakthrough to overcome the impasse due to the shortcomings contained in the CPC, namely the absence of provisions regulating the reason for the cancellation of the indictment because the status of the suspect has been canceled based on the pretrial decision.

3.3. Analysis of the Follow-up on the Handling of Cases Where the Indictment Has Been Dismissed Through an Interlocutory Ruling

Normatively, according to Article 143 paragraph (3) of CPC, that an indictment that does not meet the provisions as referred to in paragraph (2) b is null and void, where it has been subjected to a material test and obtained a Decision of the Constitutional Court of the Republic of Indonesia Number 28/PUU-XX/2022. [71], in essence, the indictment that has been declared null and void by the judge, can be corrected and resubmitted to trial, and if the defendant or his legal counsel objects, then the judge examines and decides together with the subject matter of the case.

In this regard, the Public Prosecutor's attitude towards the Interlocutory Decision handed down by the judge is regulated in Article 35 paragraph (1) of the Attorney General's Regulation of the Republic of Indonesia Number Per-036/A/JA/09/2011 concerning Standard Operating Procedures (SOP) for the Handling of General Criminal Cases, in principle the Public Prosecutor can express an attitude of accepting, thinking or not accepting the interlocutory ruling

handed down by the judge.

If the Public Prosecutor accepts the interlocutory ruling and then corrects the Public Prosecutor's indictment which has been declared null and void based on the Tangerang District Court's Interlocutory Decision Number: 1545, where the judge's consideration due to the determination of the suspect has been cancelled through a pretrial decision No. 99 and Decision No. 102.

In this regard, according to Article 83 paragraph (2) of CPC, which has been subjected to a material test and obtained the Decision of the Constitutional Court of the Republic of Indonesia Number 65/PUU-IX/2011 dated May 1, 2012, in essence that Article 83 paragraph (2) of the CPC is contrary to CRI, and does not have binding legal force, so that an appeal cannot be made against the pretrial decision.

The same provisions regarding pretrial decisions that cannot be pursued by cassation and review as stipulated in Article 45A paragraphs (1) and (2) of Law Number 14 of 1985 concerning the Supreme Court, amended by Law Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court, and Article 3 paragraph (1) of the Supreme Court of the Republic of Indonesia Regulation Number 4 of 2016 concerning the Prohibition of Review of Pretrial Decisions.

Therefore, the indictment that has been declared null and void based on the pretrial decision with substance related to the determination of the suspect who is the investigator's authority, then to correct the indictment is based on a new investigation file including an investigation warrant and new evidence, because if the public prosecutor continues to hand over the case file without substantial improvement, Therefore, the success of the prosecution is difficult to achieve because the determination of the suspect has been declared invalid based on the pretrial decision.

For cases that have obtained a pretrial decision with the determination of an invalid suspect, re-investigation can still be carried out by the Investigator based on the Decision of the Constitutional Court of the Republic of Indonesia Number 42/PUU-XV/2017 dated October 10, 2017, basically that the investigator can designate a person as a suspect again after meeting the conditions set by law, namely by renewing the investigation in order to substantially improve the evidence into evidence new that is different from the previous.

Similar provisions are also regulated in Article 2 paragraph (3) of Supreme Court Regulation Number 4 of 2016 concerning the Prohibition of Review of Pretrial Decisions, basically that for cases that have obtained a pretrial decision stating that the determination of the suspect is invalid, it does not delegate the investigator's authority to designate the person concerned as a suspect based on a minimum of two valid evidence that is different from the previous evidence.

In this regard, in order to be able to conduct a re-investigation of the case of Deddy Iwan, Ferdi Iwan, and Alwyn Aliwarga, who have obtained a verdict stating that the indictment is null and void, the Investigation Case File that is the basis

for making the indictment by the Public Prosecutor must first be returned to the Investigator of Sub-Directorate II of the Criminal Investigation Branch of the Indonesia National Police who handles the case.

Normatively, the provisions regarding the submission of investigation case files between investigators to the Public Prosecutor are regulated in the laws and regulations, namely Article 16 paragraph (1) letter i of Law Number 2 of 2002 concerning the Indonesia National Police (INP), Article 8 paragraphs (2) and (3), Article 110 paragraphs (1) and (4) of CPC, Article 10 paragraph (1) letters g and h, Article 29 paragraph (1) of the National Police Chief's Regulation Number 6 of 2019 concerning Criminal Investigations, and Article 3 paragraph (2) letters g and h of head of the criminal investigation agency Regulation Number 1 of 2022 concerning Standard Operating Procedures for Criminal Investigation.

Based on these provisions, normatively there is no provision that explicitly regulates the return of the Investigation Case File that has been declared complete (P-21) by the Public Prosecutor, and has been submitted Phase II by the Investigator to the Public Prosecutor, and has obtained an interlocutory ruling by the judge granting the objection or exception submitted by the Defendant or his legal counsel. so that the return of the Case File by the Public Prosecutor to the Investigator for re-investigation has no legal basis.

In addition, since the case file has been declared complete (P-21) by the Public Prosecutor, the investigation is considered complete, and then the Investigator submits the case file along with the suspect and evidence to the Public Prosecutor, then the responsibility for the suspect and evidence has been handed over to the Public Prosecutor as stipulated in Article 8 paragraph (3) of the Criminal Procedure Code. This means that since the submission of the Phase II case file by the Investigator, the responsibility for the case file along with the suspect and evidence has shifted from the Investigator to the Public Prosecutor.

In carrying out law enforcement duties, the INP has the authority to carry out other actions according to the law that are responsible as stipulated in Article 16 paragraph (1) letter l and Article 16 paragraph (2) of Law Number 2 of 2002 concerning the INP, where such other actions do not contradict a rule of law. In addition, in exercising discretion and carrying out its duties, the National Police must pay attention to the provisions of laws and regulations as stipulated in Article 18 paragraph (1) and paragraph (2), as well as Article 19 paragraph (1) of Law Number 2 of 2002 concerning the INP.

Specifically, in carrying out the duties and authority of criminal law enforcement as one of the main duties of the National Police as stipulated in Article 13 of Law Number 2 of 2002 concerning the INP, where in carrying out the law enforcement duties, the National Police Investigator has the authority to carry out other actions in the investigation process by upholding the applicable law as stipulated in Article 7 paragraph (1) letter j and Article 7 paragraph (3) of the CPC.

Regarding police discretion, Smith and Gray stated that discretion is a decision taken by police members based on legal and extra-legal factors, where the police must abide by informal rules of conduct, formal boundary rules, and presentational rules to display the image of the police to the public. [72]. This means that although the Police Investigator in carrying out law enforcement duties can take other actions, these actions must still be based on the provisions of the applicable laws and regulations as the legal basis for the action so that it can be legally accounted for.

In this case, the Investigator of Sub-Directorate II of the Directorate of Criminal Investigation of the National Police could not receive back the case file as a result of the investigation of the suspect Mr. Deddy Iwan, Mr. Ferdi Iwan, and Mr. Alwyn Aliwarga which had been declared complete (P21) and had been submitted Phase II to the Public Prosecutor of the Attorney General's Office of the Republic of Indonesia, and then the Case File had been transferred to the Tangerang District Court and had received an interim decision. because there is no legal provision that stipulates that the Police Investigator can receive the case file back, so there is no legal basis for the action.

According to Jake Monaghan, as a public official, the authority of the police is limited to command and carry out other duties on behalf of the state, where the duties are carried out as the duties of the state and the government. [73]. Police investigators are law enforcers who carry out their duties and authorities based on the principle of legality, which means that the actions taken by police investigators must be based on the applicable legal provisions both in the Criminal Procedure Code and other laws, so that the authority of police investigators is not the same as that of judges who can make legal finding.

According to Capus, the application of law often causes tension between formal and informal matters, where formal matters are based on legal provisions to ensure legal certainty, but the formal aspect has a negative impact on the efficiency of criminal justice which requires a lot of resources. [73]. Then, based on the duties and authority of the Public Prosecutor in criminal justice, that after the public prosecutor receives the investigation case file, then the public prosecutor will decide whether to prosecute the case or not to prosecute. [74]. The public prosecutor, before making an indictment, must carefully study the case file from the police investigator as the basis for the examination at the court session. [75].

According to Schulhofer, the public prosecutor in criminal justice represents the state by prosecuting the defendant, but the imposition of the verdict and criminal sanctions is the authority of the judge. [76]. In Indonesia, normatively according to Article 30 paragraph (1) letters d and e of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, amended by Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, gives the authority to the public prosecutor to complete the case file before it

is handed over to the court by conducting additional examinations.

The public prosecutor also has discretionary authority while still paying attention to the applicable legal provisions as stipulated in Article 34A of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, amended by Law Number 11 of 2021.

In connection with this, in handling the case, the Public Prosecutor should pay attention to the Pretrial Decision of the South Jakarta District Court Number 99/Pid/Pra/2023/PN. JKT. SEL and Number 102/Pid/Pra/2023/PN. JKT. SEL, which stated that the determination of Suspect Deddy Iwan, and Suspect Ferdi Iwan was invalid and did not have binding legal force, so the Public Prosecutor should determine that the prosecution could not be carried out in the case because the status of Mr. Deddy Iwan and Mr. Ferdi Iwan was no longer a suspect as stipulated in Article 139 of CPC.

According to Forst, the public prosecutor in deciding to submit a case to court is faced with two situations, namely in a case that is based on law but it is difficult to prove the defendant's guilt with the risk of the judge imposing a free verdict. In other cases, with caution, the public prosecutor does not file a case with the court, even though the defendant's fault can be proven factually [77].

Normatively, the determination that the case of Mr. Deddy Iwan, and Mr. Ferdi Iwan can no longer be prosecuted by the Public Prosecutor based on Article 1 number 14 and number 14, Article 50 paragraph (2) of the CPC, where since the issuance of the Pretrial Decision of the South Jakarta District Court Number 99/Pid/Pra/2023/PN. JKT. SEL dated September 18, 2023, and the South Jakarta District Court Pretrial Decision Number 102/Pid/Pra/2023/PN. JKT. SEL dated September 18, 2023, so Mr. Deddy Iwan, and Mr. Ferdi Iwan are no longer suspects, so the Public Prosecutor can no longer prosecute.

According to Z Đurđević, in carrying out the prosecution of criminal cases, the public prosecutor is based on the principle of legality, where the public prosecutor representing the state prosecutes the defendant in court if he meets the conditions prescribed by law, on the other hand, the public prosecutor is obliged to protect human rights from prosecution actions that are not based on the law. [78].

Therefore, in order to provide legal certainty and justice to the case of Mr. Deddy Iwan, Mr. Ferdi Iwan, and Mr. Alwyn Aliwarga who have obtained the Tangerang District Court Interlocutory Decision Number: 1545 Pid.Sus/2023/PN Tng dated November 8, 2023, the Public Prosecutor can terminate the prosecution, on the grounds that there is not enough evidence because the defendants' suspect status has been cancelled based on the Pretrial Decision of the South Jakarta District Court.

Then, as an effort to reform the criminal procedure code as the legal basis for the implementation of material criminal law in order to protect the community, it is important in the draft

of the criminal procedure code to regulate a follow-up investigation mechanism for cases that have received an interlocutory decision by the judge who cancelled the indictment, so that the case can still be carried out a follow-up investigation to provide justice to the community who are victims of criminal acts.

4. Conclusion

The conclusion of this study is, First, the judge's consideration in issuing an interlocutory ruling that declared the indictment null and void in the case of the Tangerang District Court Intertrial Decision Number 1545, because it has existed based on the Pretrial Decision of the South Jakarta District Court Number 99 and Decision Number 102 which decided that the status of Suspect Deddy Iwan and Suspect Ferdi Iwan was invalid because they did not meet 2 (two) valid evidence, where the reason for the cancellation of the indictment is normatively not regulated by Article 143 paragraphs (2) and (3) and Article 156 paragraph (1) of the Criminal Code, so that the judge makes a legal discovery (*rechtvinding*) through a systematic interpretation of the provisions in the Criminal Code based on Article 5 paragraph (1) and Article 10 paragraph (1) of law number 48 of 2009 concerning judicial power. Second, the follow-up to the handling of cases that have received an Interlocutory Decision which decides that the indictment is null and void, that based on the Decision of the Constitutional Court of the Republic of Indonesia Number 28/PUU-XX/2022 dated October 31, 2022, the indictment that has been declared null and void by the judge through the Interlocutory Decision can still be corrected and resubmitted to the court, but for cases where the amendment of the indictment is related to the determination of the suspect that was decided invalid based on the pretrial decision, then a new investigation must be carried out on the case, where there is no legal provision in the Criminal Code that regulates the return of complete case files to police investigators, so that to provide legal certainty, the prosecution of the case can be stopped because without the improvement of the evidence in the determination of suspects, the success of prosecution in court becomes difficult to achieve. The suggestions submitted are, First, that investigators guide the Criminal Procedure Code regarding the requirements of 2 pieces of evidence in determining a person as a suspect, and that the public prosecutor guide the Criminal Procedure Code so that they do not prosecute cases whose suspect status has been declared invalid based on the Pretrial decision. Second, so that the draft of the Criminal Procedure Code and its implementation provisions can regulate the procedure for returning case files that have received an interlocutory decision for further investigation to provide justice to people who are victims of criminal acts.

Abbreviations

CRI	Constitution of the Republic of Indonesia
CPC	Criminal Procedure Code
JP	Judicial Power
PN	Pengadilan Negeri (District Court)
JKT SEL	Jakarta Selatan (South Jakarta)
INP	Indonesia National Police

Conflicts of Interest

The authors declare no conflicts of interest.

References

- [1] Constitution of the Republic of Indonesia (CRI), Pub. L. No. 1945, Indonesia Republic (1945).
- [2] Sibuea, H. P. (2010). *Asas Negara Hukum, Peraturan Kebijakan dan Asas-Asas Umum Pemerintahan Yang Baik*. Erlangga.
- [3] Saenz Perez, C. (2022). What about fundamental rights? Security and fundamental rights in the midst of a rule of law breakdown. *New Journal of European Criminal Law*, 13(4), 526–545. <https://doi.org/10.1177/20322844221140871>
- [4] Tornado, A. S. (2022). Evaluating the Convergence in International Human Rights and Criminal Procedures Law: An Indonesian Case Study. *International Journal of Criminal Justice Science*, 17(2), 324–336. <https://doi.org/10.5281/zenodo.4756128/IJCJS>
- [5] Perbawati, C. (2013). *Negara Hukum Kesejahteraan* (Muhtadi, Ed.). Pusat Kajian Konstitusi dan Peraturan Perundang-Undangan Fakultas Hukum Universitas Lampung.
- [6] Solikin, H. N. (2019). *Hukum, Masyarakat, dan Penegakan Hukum*. Qiara Media.
- [7] Amin, R. (2020). *Hukum Pembuktian Dalam Perkara Pidana dan Perdata*. Deepublish.
- [8] Muladi. (1995). *Kapita Selekt Sistem Peradilan Pidana*. Badan Penerbit Universitas Diponegoro.
- [9] Atmasasmita, R. (2011). *Sistem Peradilan Pidana Kontemporer*. Kencana.
- [10] Criminal Procedure Code (CPC), Pub. L. No. 8, Indonesia Republic (1981).
- [11] Arif, B. N. (2005). *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. Citra Aditya Bakti.
- [12] Jailani, S. (2012). Independensi Kekuasaan Kehakiman Berdasarkan Undang-Undang Dasar 1945. *Fiat Justitia Jurnal Ilmu Hukum*, 6(3), 1–7.
- [13] Monteiro, J. M. (2007). Putusan Hakim Dalam Penegakan Hukum di Indonesia. *Jurnal Hukum Pro Justitia*, 25(2), 130–139.
- [14] Judicial Power (JP), Pub. L. No. 48, Indonesia Republic (2009).
- [15] Manan, A. (2013). Penemuan Hukum Oleh Hakim Dalam Praktek Hukum Acara di Peradilan Agama. *Jurnal Hukum Dan Peradilan*, 2(2), 189–202.
- [16] Decision of the Tangerang District Court Number: 1545 Pid.Sus/2023/PN Tng (Decision No. 1545) (November 8, 2023).
- [17] Pretrial Decision of the South Jakarta District Court Number 99/Pid/Pra/2023/PN. JKT. SEL (Decision No. 99) (September 18, 2023).
- [18] Pretrial Decision of the South Jakarta District Court Number 102/Pid/Pra/2023/PN. JKT. SEL Dated September 18, 2023 (Decision No. 102) (September 18, 2023).
- [19] Waluyo, B. (2008). *Penelitian Hukum Dalam Praktik*. Sinar Grafika.
- [20] Soekanto, S., & Mamudji, S. (2003). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. PT. RajaGrafindo Persada.
- [21] Sunggono, B. (2013). *Metodologi Penelitian Hukum*, PT. RajaGrafindo Persada.
- [22] Claassen, J. (2024). Doctrinal and Empirical Perspectives on Preliminary References to The European Court of Justice; Separate Worlds, Unanswered Questions. *European Journal of Legal Studies*, 15(2), 19–35. <https://doi.org/10.2924/EJLS.2023.021>
- [23] Marzuki, P. M. (2013). *Penelitian Hukum*. Kencana.
- [24] Efendi, J., & Ibrahim, J. (2016). *Penelitian Hukum Normatif dan Empiris*. Kencana.
- [25] Bachtar. (2018). *Metode Penelitian Hukum*. UNPAM Press.
- [26] Butarbutar, E. N. (2018). *Metode Penelitian Hukum; Langkah-Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum*. Refika Aditama.
- [27] Soemitro, R. H. (1990). *Metode Penelitian Hukum dan Jurimetri*. Ghalia Indonesia.
- [28] Ishaq, H. (2017). *Metode Penelitian Hukum; Penulisan Skripsi, Tesis, Serta Disertasi*. Alfabeta.
- [29] Soekanto, S. (1986). *Pengantar Penelitian Hukum*. UI Press.
- [30] Nasution, B. J. (2014). *Sejarah Perkembangan Kekuasaan Kehakiman di Indonesia*. 7(3), 13–32.
- [31] Azhari, A. F. (2018). *Meluruskan Arah Manajemen Kekuasaan Kehakiman* (Imran & F. R. Hidayati, Eds.). Sekretariat Jenderal Komisi Yudisial Republik Indonesia.
- [32] Ahmad, S. D., Asrun, A. M., & Rosyidi, A. R. (2021). *Sejarah Peradilan Indonesia*. IPB Press.
- [33] Hung, T. Q., Peng, Y. H., & Lien, N. T. (2021). Significance of Judicial Independence in the Law Governed by the Rule of Law in Vietnam. *International Journal of Criminal Justice Sciences*, 16(2), 129–145. <https://doi.org/10.5281/zenodo.4756066/IJCJS>

- [34] Martini, G. (2021). Procedural and judicial guarantees against the punitive power of public bodies. *Global Jurist*, 21(1), 211–246. <https://doi.org/10.1515/gj-2020-0030>
- [35] Siahaan, M. (2017). Kekuasaan Kehakiman Yang Mandiri dan Akuntabel Menurut UUD NRI Tahun 1945. *Jurnal Ketaatanegaraan*, 4, 1–43.
- [36] Busthami, D. (2017). Kekuasaan Kehakiman Dalam Perspektif Negara Hukum di Indonesia. *Jurnal Masalah-Masalah Hukum*, 46(4), 336–342.
- [37] Prasetyaningsih, R. (2011). Akuntabilitas Kekuasaan Kehakiman. *Jurnal Konstitusi*, 8(5), 829–848.
- [38] Subiyanto, A. E. (2012). Mendesain Kewenangan Kekuasaan Kehakiman Setelah Perubahan UUD 1945. *Jurnal Konstitusi*, 9(4), 661–680.
- [39] Fahmiron. (2016). Independensi dan Akuntabilitas Hakim Dalam Menegakkan Hukum Sebagai Wujud Independensi dan Akuntabilitas Kekuasaan Kehakiman. *Jurnal Litigasi*, 17(2), 3467–3516.
- [40] Badriyah, S. M. (2011). Penemuan Hukum (Rechtsvinding) dan Penciptaan Hukum (Rechtsschepping) Oleh Hakim Untuk Mewujudkan Keadilan. *Jurnal Masalah-Masalah Hukum*, 40(3), 384–392.
- [41] Kurniawan, R., Effendi, E., & Erdiansyah. (2015). Penemuan Hukum Oleh Hakim Dalam Perkara Pidana Berdasarkan Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman. *Jurnal Online Mahasiswa Fakultas Hukum*, 7(1), 1–14.
- [42] Haryati, T. (2015). *Peradilan di Indonesia*. Sanabil.
- [43] Sudirman, A. (2007). *Hati Nurani Hakim dan Putusannya; Suatu Pendekatan dari Perspektif Ilmu Hukum Perilaku (Behavioral Jurisprudence) Kasus Hakim Bismar Siregar*. Citra Aditya Bakti.
- [44] Bhakti, T. S. (2016). Politik Hukum Dalam Putusan Hakim. *Jurnal Hukum Dan Peradilan*, 5(1), 53–72.
- [45] Elias, R. F. (2014). Penemuan Hukum Dalam Proses Peradilan Pidana. *Jurnal LPPM Bidang EkoSosBudKum*, 1(1), 1–11.
- [46] Wicaksana, D. A., Yusup, D. K., & Jebabun, A. (2020). *Penelitian Format Putusan Pengadilan Indonesia; Studi Empat Lingkungan Peradilan di Bawah Mahkamah Agung* (M. S. Ginting, Ed.). Badan Penerbit Fakultas Hukum Universitas Indonesia.
- [47] Suparno. (2019). Mewujudkan Putusan Hakim Yang Berkeadilan Melalui Hermeneutika. *Jurnal Al'Adl*, 11(2), 172–183.
- [48] Mustofa, Hj. M. E. (2019). *Bunga Rampai Hukum dan Peradilan*. Alumni.
- [49] Isharyanto, & Abdurrachman, A. (2016). *Penafsiran Hukum Hakim Konstitusi (Studi Terhadap Pengujian Undang-Undang No. 7 Tahun 2004 tentang Sumber Daya Air*. Halaman Moeka Publishing.
- [50] Isnantia, N. I. (2017). Legal Reasoning Hakim Dalam Pengambilan Putusan Perkara di Pengadilan. *Islamadina; Jurnal Pemikiran Islam*, 18(2), 41–56.
- [51] Rasyid, U., Wantu, F. M., & Nggilu, N. M. (2020). *Wajah Kekuasaan Kehakiman Indonesia; Analisis Yuridis Putusan Mahkamah Konstitusi dan Putusan Mahkamah Agung Yang Bersifat A Contrario*. UII Press.
- [52] Efendi, J. (2018). *Rekonstruksi Dasar Pertimbangan Hukum Hakim; Berbasis Nilai-Nilai Hukum dan Rasa Keadilan Yang Hidup Dalam Masyarakat*. Kencana.
- [53] Boateng, F. D., Pryce, D. K., Dzordzormenyoh, M. K., Hsieh, M. L., & Cuff, A. (2024). Empirical Examination of Factors that Influence Official Decisions in Criminal Cases Against Police Officers. *American Journal of Criminal Justice*, 49(3), 462–484. <https://doi.org/10.1007/s12103-024-09756-w>
- [54] Nisrina, S. M., Haerana, & Azisa, N. (2023). Comparative Analysis of Forced Defence (Noodweer) in Dealing with the Crime of Persecution: A Study of Indonesian Criminal Law and Islamic Law. *Khazanah Hukum*, 5(2), 148–159. <https://doi.org/10.15575/kh.v5i2.25825>
- [55] Yam, J. (2024). Judging Under Authoritarianism. *Modern Law Review*, 87(4), 894–925. <https://doi.org/10.1111/1468-2230.12861>
- [56] Riesthuis, T. (2023). The Legitimacy of Judicial Decision-Making: Towards Empirical Scrutiny of Theories of Adjudication. *Utrecht Law Review*, 19(2), 75–86. <https://doi.org/10.36633/ulr.877>
- [57] Adonara, F. F. (2015). Prinsip Kebebasan Hakim Dalam Memutus Perkara Sebagai Amanat Konstitusi. *Jurnal Konstitusi*, 12(2), 217–236.
- [58] Rosadi, E. (2016). Putusan Hakim Yang Berkeadilan. *Badamai Law Journal*, 1(1), 381–400.
- [59] Nur, H. A., Mansyur, R., & Moh. Askin, M. (2015). *Kompilasi Penerapan Hukum oleh Hakim dan Strategi Pemberantasan Korupsi; Dilengkapi Beberapa Putusan* (M. E. R. H. A. Richmiani, Ed.). Biro Hukum dan Humas, Badan Urusan Administrasi, Mahkamah Agung Republik Indonesia.
- [60] Suparman, H. E., Jayus, J. A., & Mahbub, M. (2011). *Penerapan dan Penemuan Hukum Dalam Putusan Hakim; Laporan Penelitian Putusan Pengadilan Tinggi Tahun 2011*. Sekretariat Jenderal Komisi Yudisial Republik Indonesia.
- [61] Smith, P., & Natalier, K. (2005). *Understanding Criminal Justice; Sociological Perspectives*. Sage Publications Ltd.
- [62] Prakoso, A. (2016). *Penemuan Hukum*. Laksbang.
- [63] Mertokusumo, S. (2009). *Penemuan Hukum; Sebuah Pengantar*. Liberty.
- [64] Tleuov, T., Mussabekova, I., Kopbayev, D., & Koishybauly, K. (n.d.). Interpreting Legal Norms and Their Role in Criminal Justice Administration. In *Pakistan Journal of Criminology* (Vol. 16, Issue 03).

- [65] Adhari, A., Sitabuana, T. H., & Aprilia, I. S. (2023). Morality in Law; An Analysis Toward The Legal Philosophy and Indonesia National Legal System. *Indonesia Law Review*, 13(2), 71–88. <https://doi.org/10.15742/ilrev.v13n1.1>
- [66] Badriyah, S. M. (2010). *Penemuan Hukum Dalam Konteks Pencarian Keadilan*. Badan Penerbit Universitas Diponegoro.
- [67] Palaguna, I. D. G. (2019). *Penemuan Hukum dan Penggunaan Yurisprudensi oleh Hakim Mahkamah Konstitusi*.
- [68] De Mulder, W., Valcke, P., Vanderstichele, G., & Baeck, J. (2021). Are Judges More Transparent Than Black Boxes? A Scheme to Improve Judicial Decision-Making by Establishing a Relationship with Mathematical Function Maximization. <https://perma.cc/Z74F-Y865>
- [69] Qamar, N., & Salle, H. (2018). *Logika dan Penalaran Dalam Ilmu Hukum*. Social Politic Genius (SIGn).
- [70] Rahardjo, S. (2009). *Hukum Progresif; Sebuah Sintesa Hukum Indonesia*. Genta Publishing.
- [71] Decision of the Constitutional Court of the Republic of Indonesia Number 28/PUU-XX/2022 (DCC No. 28) (October 31, 2022).
- [72] Grace, S. (2022). The perverse impact of performance measures on policing: lessons from the rise and fall of out of court disposals. *Policing and Society*, 32(2), 200–220. <https://doi.org/10.1080/10439463.2021.1906667>
- [73] Miller, E. J. (2023). The Concept of the Police. *Criminal Law and Philosophy*, 17(3), 573–595. <https://doi.org/10.1007/s11572-023-09682-8>
- [74] Bielen, S. (2024). Prosecutors and crime deterrence: Evidence from a difference-in-differences analysis with staggered treatment. *Journal of Criminal Justice*, 90. <https://doi.org/10.1016/j.jcrimjus.2023.102147>
- [75] Yanto, O., Fitri Rahmadi, I., & Widya Sari, N. (2022). Can Judges Ignore Justifying and Forgiveness Reasons for Justice and Human Rights? *Sriwijaya Law Review*, 6. <https://doi.org/10.28946/slrev.Vol6.Iss1>
- [76] Lynch, M. (2023). Prosecutors as punishers: A case study of Trump-era practices. *Punishment and Society*, 25(5), 1312–1333. <https://doi.org/10.1177/14624745231166311>
- [77] Gould, J. B., Smiegiński, V. M., & Leo, R. A. (2022). Theorizing Failed Prosecutions. In *Journal of Criminal Law and Criminology* (Vol. 112). <https://scholarlycommons.law.northwestern.edu/jclc>
- [78] Karas, E. I., Novokmet, A., & Martinović, I. (2023). Judgment Based on Agreement of the Parties: Analysis from the Perspective of Practitioners' Experience in Croatia. *Utrecht Law Review*, 19(1), 31–52. <https://doi.org/10.36633/ulr.850>