

QUALIFICATION OF ENVIRONMENTAL LOSS AS A CORRUPTION (LEGAL

ANALYSIS ON THE COURT DECISION No. 123/Pid.Sus-TPK/2017/PN Jkt.Pst. and

No. 16/Pid.Sus-TPK/2018/PT.DKI)

By:

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ABSTRACT

This research began with the abuse of authority by former governor Nur Alam over the granting of a mining business permit that had an impact on environmental pollution and damage in the Kabaena Island region of Southeast Sulawesi. For this environmental loss, for the first time, the Corruption Eradication Commission (KPK) demanded the defendant and qualifies the crime as a loss of state finance. With normative research methods, the researcher collected and analysed legal principles and norms related to state finance, state losses, and corruption and the *ratio decidendi* of Court Decision No. 123 / Pid.Sus-TPK / 2017 / PN Jkt.Pst. and No. 16 / Pid.Sus-TPK / 2018 / PT.DKI. Grammatically, there is an opportunity that environmental losses can be qualified as an object of state finance so that the reduction or loss of environmental resources that are under the control of the state will have a detrimental impact on state finance. However, the researcher is of the opinion that based on the principle of legality, legal certainty and standards of criminal proof beyond reasonable doubt and several related legal reasons, so environmental losses cannot be qualified as losses of state finance as one of the elements of corruption in accordance with article 2 (1) and 3 UU Law No. 31/1999 and its revision of Law 20/2001 on Corruption Eradication Act. The *ratio decidendi* of judges at the District Court and Appeal Court levels did not provide an explanation of the relationship between environmental losses and state financial losses and reasons for refusing such qualifications. Thus, environmental losses cannot be qualified as state financial losses and judges do not use articles 2 (1) and 3 of Corruption Eradication Act to qualify for environmental losses as a detrimental on state finance.

Keywords: Environmental loss, corruption, *ratio decidendi*

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