



## Legal Certainty For The Judiciary That Is Authorized To Adjudicate Corruption Cases That Occurred In Basarnas Ri

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**Abstract:** Article 42 of the Corruption Eradication Commission Law grants the KPK (Corruption Eradication Commission) coordinating authority to oversee the investigation, inquiry, and prosecution of corruption crimes jointly committed by legal subjects under the jurisdiction of both military and general courts. The normative juridical research method, as a legal research approach, bases its analysis on literature review or secondary data sources as the primary foundation of the study, conducted through an in-depth examination of legal regulations and various literature references relevant to the issue under review. Based on an analysis of the relevant statutory provisions, it can be concluded that the Basarnas corruption case involving military personnel should be adjudicated by the Corruption Court, with several legal considerations. The Corruption Court is the competent body to try corruption cases within the National Search and Rescue Agency of the Republic of Indonesia, while maintaining institutional coordination between the KPK and the Indonesian National Armed Forces (TNI) as mandated by the Constitutional Court's decision. An in-depth analysis of the applicable statutory provisions indicates that the legal provisions regarding jurisdiction over corruption cases involving military personnel have undergone a paradigmatic shift from a personal jurisdiction approach to a subject matter jurisdiction approach. Based on this ruling, and considering that the Basarnas corruption case was initially investigated and discovered by the KPK, the Corruption Court is the competent body to adjudicate the case, including that of Air Marshal Henri Alfiandi as an active member of the TNI.

**Keywords:** Authority, Adjudication, Corruption

### INTRODUCTION

Indonesia's criminal law system, which is rooted in the Dutch concept, has a structural framework that is divided into two important components: a general section (algemene deel) and a special section (bijzonder deel). This dichotomy reflects the different scope of the rules, as the first part regulates the basic principles set forth in Book I of the Criminal Code

concerning General Provisions, while the second part regulates various forms of criminal acts and offenses, both codified and non-codified. Van Hattum, quoted by P.A.F. Lamintang, classifies criminal law into general criminal law (algemeen strafrecht) that applies universally to all individuals, and special criminal law (bijzonder strafrecht) that applies specifically to certain groups, such as military personnel. [ Lisnawaty W. Badu and Apripari, Menggagas Tindak Pidana Militer Sebagai Kompetensi Absolut Peradilan Militer Dalam Perkara Pidana (Fakultas Hukum Universitas Padjadjaran, n.d.).]

In the spectrum of special crimes, corruption is one of the categories that receives special attention in the national criminal law system. The terminology of "corruption crimes", which contains two basic elements, the criminal aspect and the corruption dimension, shows the complexity of the legal problems it contains. This complexity is increasingly seen in the corruption case suffered by the National Search and Rescue Agency (Basarnas), where the KPK has designated Henri Alfiandi and Arif Budi Cahyanto as suspects in alleged bribery of procurement projects on July 26, 2023. The case involved the alleged receipt of illegal tips worth around IDR 88.3 billion from various suppliers who won the project during the 2021-2023 period.

Empirical conditions show that there is an overlap of authority in handling corruption cases involving military personnel. In fact, there is regulatory dualism that creates legal uncertainty in law enforcement practices. On the one hand, article 9 paragraph 1 of Law No. 31/1997 on military justice explicitly states that courts within the military judiciary have jurisdiction to prosecute criminal acts committed by active soldiers, including those whose status is equivalent under the provisions of the law. This legal reality creates the presumption that Vice Marshal Henri Alfiandi, as an active soldier of the TNI, must be under the jurisdiction of a military court. [ "Undang Undang Republik Indonesia Nomor 31 tahun 1997 Tentang Peradilan Militer," n.d.]

However, on the other hand, legal facts show that Article 2 of Law No. 46/2009 concerning Corruption Courts stipulates that the Corruption Court is a special court within the scope of the General Court. In addition, Article 5 of the Law expressly states that the Criminal Court is the only judicial institution that has the authority to examine, prosecute, and decide corruption cases. This positive legal status creates a monopoly of jurisdiction for the Corruption Court in handling all corruption cases regardless of the legal subject status of the perpetrator.

The reality of the implementation of the law also shows that Article 42 of Law No. 30/2002 concerning the KPK gives the KPK the authority to coordinate the investigation, investigation, and prosecution of corruption crimes committed jointly by legal subjects subject to military and general courts. This provision reflects the legislator's recognition of possible criminal acts of corruption in all judicial jurisdictions, but does not provide a definitive solution with respect to the appropriate judicial forum.

In carrying out the Basarnas case, the KPK has exercised its authority as an investigative institution by designating suspects without paying attention to the difference in legal status between Henri Alfiandi as a member of the TNI and Arif Budi Cahyanto as a civil servant. This condition shows that at the investigation stage, the KPK applies the principle of integrated case management, but jurisdictional problems will arise when the case enters the trial and judicial stages. [ Rodliyah, Hukum Pidana Khusus Unur Dan Sanksi Pidananya (Rajawali pres, 2021).]

Ideally, the Indonesian legal system should provide clear legal certainty regarding the authority of the judiciary in handling corruption cases involving members of the military. The principle of legal certainty as one of the pillars of the rule of law requires clarity of legal rules that are predictable and consistent in their application. In this context, there should be a clear hierarchy of norms or *lex specialis* that can address the conflict of norms between the provisions of the military courts and the special courts for corruption. Ideally, the absolute

competence of the courts in handling corruption crimes should be based on principles that can ensure effective law enforcement and the protection of the public interest. Considering that corruption is an extraordinary criminal act that damages the State's finances and the national economy, its handling must be handed over to a court that has special specialization and competence in handling corruption cases, namely the Corruption Court.[ Rusadi Kantaprawira, Hukum Dan Kekuasaan, Gyakarta: Universitas Islam Indonesia (PT. Sangir Multi Usaha, 2022).]

In addition, the principle of equality before the law must be the basis that there is no difference in legal treatment based on a person's status or position in society. Therefore, TNI personnel who commit corruption crimes must be tried with the same standards and procedures as other corruption perpetrators in the Corruption Crimes Court which has been equipped with special judges and prosecutors who have competence in handling corruption cases.

An ideal legal system should also have an effective normative conflict resolution mechanism, in which the Supreme Court, as the highest state court, can issue binding rulings on absolute jurisdiction in cases involving jurisdictional conflicts between different judicial arrangements. This is in line with the provision that the Supreme Court decides at the first and last instance all disputes over the authority to adjudicate between courts in different judicial arrangements.

The legal problems arising from the Basarnas corruption case do not only lie in the material aspect of corruption, but also in the formal aspect of judicial authority that creates legal uncertainty. The gap between das sein and das sollen indicates a legal gap or a conflict of norms (legal antinomy) that requires resolution through comprehensive legal interpretation.[ Rani Yohana Wati, "Tinjauan Normatif Terhadap Penegakan Hukum Tipikor Yang Dilakukan Oleh TNI: Studi Kasus Basarnas RI," *Sumbang12 Law Journal* 2, no. 2 (2024): 66–78.]

Although there have been several previous investigations that have addressed similar issues, such as Rani Yohana Wati and Riki Zulfiko's study on "Legal Review of the Indonesian Armed Forces for Corruption Law Enforcement: A Case Study of Basarnas RI" and Novianto Murti Hantoro's analysis on "The controversy over the handling of bribery cases in Basarnas," a more in-depth analysis of aspects of legal certainty and the resolution of regulatory conflicts in the context of judicial authority is still needed.[ Tempo, *Kronologi Polemik Tentara Nasional Indonesia-Komisi Pemberantasan Korupsi Terkait Kasus Dugaan Suap Di Basarnas* (2023).]

This research is important considering that similar cases have the potential to be repeated in the future, so legal clarity is needed that can be used as a guide in handling corruption cases involving the military. Therefore, this study aims to comprehensively analyze the basis of the authority of certain institutions in handling corruption cases and determine the appropriate judicial body to prosecute corruption cases in Basarnas RI involving members of the TNI. Based on the description above, this research focuses on two main problems: first, how the legal provisions of the authority assess corruption cases committed by the military from the perspective of harmonizing legal norms; and second, which judicial body has the authority to prosecute corruption cases at the National Search and Rescue Agency of the Republic of Indonesia by considering aspects of legal certainty and law enforcement effectiveness.

The problems raised in this study are:

- 1.What are the legal provisions of the authority to prosecute cases of corruption committed by the military?
- 2.What is the body authorized to prosecute corruption cases at the National Search and Rescue Agency of the Republic of Indonesia?

## RESEARCH METHODS

The normative approach to legal research is a research methodology in the field of law that uses analysis based on literature reviews or secondary data as a fundamental foundation in

the implementation of research. This method is implemented through a thorough review of legal regulations and various literature sources related to the topic of the problem being studied.

The application of this methodology is carried out through the analysis of two classifications of the main sources of legal material. The first classification is a primary source of law that consists of positive legal principles that are legally valid and have binding force in the Indonesian national legal system. The second classification is a secondary legal source consisting of various supporting references, including scientific publications in the form of books and scientific journals in the field of law, scientific works in the field of jurisprudence, perspectives and theories of legal experts (legal doctrine), terminological references in the form of legal dictionaries and encyclopedias, along with empirical data and information related to corruption cases that occurred in Indonesia. All of these secondary sources have a function as supporting and complementary materials that enrich the process of analyzing primary legal sources within the framework of legal research that has been built by researchers.[ Soerjono Soekanto, Pengantar Penelitian Hukum (UI Press, 2008).]

## RESULTS AND DISCUSSION

### Legal provisions of the authority to prosecute corruption cases committed by members of the armed forces

To understand the complexity of the issue of judicial authority in corruption cases involving military personnel, it is necessary to understand the basic concepts of judicial authority and system. Authority in public law terminology refers to the legitimacy or authority that an institution has to carry out certain actions based on laws and regulations. This concept is different from the judiciary, which is the process of resolving cases through formal mechanisms in court. In the context of public law, authority is closely related to the division of state power, where formal power held by the executive, legislative, and judicial branches is a form of constitutional authority.[ Rusadi Kantaprawira, Hukum Dan Kekuasaan, Gyakarta: Universitas Islam Indonesia.]

The division of judicial authority in the Indonesian legal system is based on two main classifications, namely absolute jurisdiction and relative jurisdiction. Absolute jurisdiction is the authority of a court that is determined based on the category of case and the legal subject involved, whereas relative jurisdiction is related to the division of jurisdiction between courts that have similar jurisdiction. In the context of corruption cases involving military personnel, the main problem lies in determining absolute jurisdiction, i.e. which court has the authority to judge based on the characteristics of the legal subject and the type of criminal act committed.[ ELSA AZ ZAHRA, PENERAPAN KOMPETENSI ABSOLUT PENGADILAN MILITER TINGGI DALAM MENGADILI PURNAWIRAWAN TNI PADA PERKARA KONEKSITAS TINDAK PIDANA KORUPSI MENURUT PRINSIP KEPASTIAN DAN PERSAMAAN HUKUM (STUDI PUTUSAN NOMOR 44-K/KONEKSITAS/PMT-II/AD/VIII/2022), n.d., accessed August 14, 2025, [https://repository.unsri.ac.id/173625/24/RAMA\\_74201\\_02011182126029\\_0021026805\\_0218119002\\_01\\_front\\_ref.pdf](https://repository.unsri.ac.id/173625/24/RAMA_74201_02011182126029_0021026805_0218119002_01_front_ref.pdf).]

Indonesia's judicial structure places the Supreme Court at the top of the judicial hierarchy that oversees four judicial environments: the General Court, the Religious Court, the State Administrative Court, and the Military Court. Based on Law No. 46/2009 concerning the Corruption Court, the Corruption Crimes Court is a special court under the auspices of the general judiciary.[ "Undang Undang Republik Indonesia No 46 Tahun 2009 Tentang Pengadilan Tindak Pidana Korupsi," n.d.] This creates a paradoxical situation when it comes to corruption cases involving military personnel, considering that military courts have special jurisdiction over TNI members, while corruption courts have monopoly authority in handling all corruption cases.

The corruption case involving the National Search and Rescue Agency (Basarnas) is a relevant case study to analyze the complexity of judicial authorities in handling corruption crimes involving military personnel. The KPK has designated Deputy Marshal Henri Alfiandi and Arif Budi Cahyanto as suspects in the case of alleged bribery in the procurement of goods and services projects on July 26, 2023. This determination triggered a strong response from the TNI which rejected the authority of the KPK to designate active members of the TNI as suspects.

The TNI's rejection of the KPK's actions is based on the literal interpretation of Law No. 31/1997 on Military Justice, which was conveyed by the Head of the TNI Legal Development Agency, Rear Admiral Kresno Buntoro. The TNI's argument emphasizes that all legal actions against active soldiers, including investigation, prosecution, trial, and execution, must be carried out through military justice mechanisms based on the Criminal Procedure Code and Law No. 8/1981. [“Undang-Undang No. 8 Tahun 1981, Tentang HAPID Atau KUHP Lembar Negara RI Tahun 1981 No. 76 Dan Penjelasannya Yang Dimuat Dalam Tambahan Lembar Negara RI No. 3209,” n.d.] More specifically, the TNI emphasized that the authority to arrest and detain TNI members can only be carried out by three institutions: superiors who have the right to punish, military police, and military prosecutors.

The KPK's response to the TNI's protest showed an admission of errors in the determination of suspects. KPK Vice President Johanis Tanak admitted that the KPK investigation team had made a mistake by designating TNI members as suspects without coordinating with the TNI. This recognition indicates a lack of understanding or ambiguity regarding the coordination mechanism between agencies in handling corruption cases involving military personnel, and shows the need for procedural harmonization between the KPK and the TNI.

The existence of TNI soldiers in civilian institutions such as Basarnas has strong legal legitimacy based on Law No. 3/2025 on amendments to Law No. 34/2004 on the Indonesian National Army. [ Stefanus Sunggul H. Napitupulu, “Tinjauan Yuridis Terhadap Klausul Non Kompetisi Dengan Studi Kasus Putusan Nomor 31/Pdt. G/2022/PNTng” (PhD Thesis, Universitas Kristen Indonesia, 2023), <http://repository.uki.ac.id/10365/>.] Article 47 of the Law explicitly provides that soldiers can hold positions in various ministries and agencies, including agencies that handle search and rescue. This provision provides a clear legal basis for the assignment of soldiers in strategic civilian institutions, including Basarnas.

The legal implications of the assignment of soldiers to civilian institutions create a gray area in determining judicial jurisdiction when criminal acts occur. On the one hand, the status of the soldier remains tied to the individual, so he remains officially subject to the provisions of the military court. [ Yulinda Regina C. Lumban Gaol et al., “Kewenangan KPK Untuk Menyidik Anggota TNI Bersama-Sama Dengan Sipil Secara Koneksitas.,” *Jurnal Ilmu Hukum, Humaniora Dan Politik (JIHHP)* 4, no. 4 (2024), [93 | Page](https://search.ebscohost.com/login.aspx?direct=true&profile=ehost&scope=site&authtype=crawler&jrnl=27472000&AN=178471989&h=qINjVkfzgSTpxqhdNxY55GWcTUsYMX%2BySfjWI429bVPgwYZt75Jx93MsPRWerxM4vEhSfcmdwQyHVu0f3%2FjamQ%3D%3D&crl=c.]. On the other hand, the context of the implementation of duties in civil institutions and the characteristics of the criminal acts committed (corruption) can transfer jurisdiction to the general court. This condition requires a comprehensive legal interpretation to determine the appropriate judicial forum. In addition, the assignment of soldiers in civilian institutions also has implications for supervision and accountability mechanisms. In the performance of their duties in civilian institutions, soldiers submit not only to the military command hierarchy, but also to the structure of the civilian bureaucracy. This duality can create complexity in determining the chain of command and accountability when there is a violation of the law, including corruption.</p></div><div data-bbox=)

Article 42 of Law Number 30 of 2022 concerning the KPK gives special authority to the KPK to coordinate and monitor the investigation, investigation, and prosecution of corruption crimes committed jointly by legal subjects subject to military and general courts.[ “Undang Undang Republik Indonesia Nomor 30 Tahun 2002 Tentang Komisi Pemberantasan Tindak Pidana Korupsi,” n.d.] This provision shows the legislator's recognition of the possibility of corruption crimes involving perpetrators from various institutional backgrounds.

The authority of the KPK coordinator is in line with the principle of monopoly of the jurisdiction of the Corruption Crimes Court, as stipulated in Article 5 of Law No. 46/2009, which states that the Corruption Crimes Court is the only court authorized to examine, adjudicate, and decide corruption cases.[ “Undang Undang Republik Indonesia No 46 Tahun 2009 Tentang Pengadilan Tindak Pidana Korupsi.”] The combination of these two provisions creates a legal framework that gives the KPK legitimacy to handle corruption cases involving military personnel, with the caveat that coordination must be done with the military.

However, the implementation of this coordination authority in practice still faces obstacles, as seen in the case of Basarnas. The lack of clarity on the coordination mechanism between the KPK and the TNI has led to institutional conflicts that have led to the revocation of the determination of suspects by the KPK. This shows the need to deepen the Standard Operating Procedures (SOP) for coordination between institutions in handling corruption cases between jurisdictions.

Article 89 of the Criminal Code regulates the principle of connectivity to handle criminal acts committed jointly by perpetrators who are subject to a different judicial environment. This provision provides that criminal acts committed jointly by persons belonging to the common judicial environment and military courts are examined and tried by the courts of the general judicial environment, unless, in accordance with the decision of the Minister of Defense and Security with the approval of the Minister of Justice, the case shall be examined and tried by a military court.[ ARDINTA HIDAYATUL UMAM and JURUSAN HUKUM TATA NEGARA, KEWENANGAN KOMISI PEMBERANTASAN KORUPSI DALAM PENETAPAN TERSANGKA KASUS KORUPSI PRAJURIT TENTARA NASIONAL INDONESIA AKTIF PERSPEKTIF FIQH SIYA< SAH, n.d., accessed August 14, 2025, <https://etheses.iainponorogo.ac.id/30287/1/ARDINTA%20HIDAYATUL%20U.pdf.>]

This principle of connectivity is strengthened by the provisions of article 65 paragraph 2 of Law No. 34/2004 concerning the TNI, which stipulates that soldiers are subject to the military judicial power in the event of a violation of military criminal law and subject to the power of the general judiciary in the event of a violation of the general criminal law regulated by law. The classification of corruption as a common criminal law (not a military crime) strengthens the argument that military personnel who commit corruption should be subject to the common justice.

The application of the principle of connectivity in the Basarnas case must direct the handling of cases to the Criminal Court as part of the overall judicial environment. This is in line with the characteristics of corruption, which is an extraordinary crime that requires special treatment by specialized courts in this area. This principle also supports judicial efficiency by avoiding the settlement of cases that must be handled in an integrated manner.

The complexity of the issue of judicial authority in corruption cases involving military personnel reflects the tension between two different legal paradigms. On the one hand, the military justice paradigm emphasizes the specificity of the status of soldiers that need to be managed through the internal justice system. On the other hand, the special judicial paradigm for corruption emphasizes the specificity of the types of criminal acts that need to be handled by courts that have special expertise.

Article 9 of Law No. 31/1997 on Military Justice gives broad powers to military courts to try offenses committed by soldiers, including those treated as soldiers under the

law.[ “Undang-Undang No. 31 Tahun 1999 Sebagaimana Diubah Oleh Undang-Undang No. 20 Tahun 2001 Tentang Pemberantasan Tindak Pidana Korupsi,” n.d.] This article also provides for the exclusive authority of military courts to arrest and detain members of the TNI, which can only be done by superiors with the right to punish, the military police or the military inspectorate.

However, the provisions of article 74 of Law No. 34/2004 concerning the TNI create an interesting transition situation. This article stipulates that the provisions of Article 65 governing the division of jurisdiction by type of criminal act will come into force after the new Military Justice Act. Until a new law is drafted, the provisions of Law No. 31/1997 on Military Justice remain in force. This condition creates legal uncertainty because a new military justice law has not yet been formed.[ Amanah Abdi Collina, “Kewenangan Kominsi Pemberantasan Korupsi (KPK) Dalam Mengadili Tindak Pidana Korupsi Anggota TNI Yang Menduduki Jabatan Sipil” (B.S. thesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, n.d.), accessed August 14, 2025, <https://repository.uinjkt.ac.id/dspace/handle/123456789/83905>.]

Based on the analysis of several relevant legal provisions, it can be concluded that the Basarnas corruption case involving military personnel must be handled by the Corruption Crimes Court with several legal considerations. First, corruption is classified as a general criminal law, not military criminal law, so according to article 65 paragraph 2 of the TNI Law, the perpetrator must be subject to the general court. Second, the Corruption Crimes Court has monopoly authority to handle all corruption cases based on Law No. 46/2009. Third, the principle of connectivity of the Criminal Code directs the treatment of interjurisdictional crimes to the general court.

However, the implementation of this legal certainty requires a clear coordination mechanism between the KPK and the TNI based on Article 42 of the KPK Law. Coordination is important to ensure that the investigation and investigation process is carried out by taking into account the specificity of the military status of the suspect, without reducing the effectiveness of corruption eradication. The KPK has the authority to designate military personnel as suspects in corruption cases, but its implementation must be carried out in coordination with the TNI to ensure compliance with applicable legal procedures.

Standard conflict resolution in this case also requires the active role of the Supreme Court as the highest court authorized to decide disputes over the authority to adjudicate between judicial arrangements. The Supreme Court's decision could set a binding legal precedent for similar cases in the future, as well as create legal certainty in handling corruption crimes involving military personnel. Thus, it can be concluded that in the Basarnas corruption case, the military personnel involved must be subject to the general court through the Corruption Crimes Court, while still paying attention to the institutional and procedural coordination aspects necessary to ensure legal certainty and justice.

### **The body authorized to prosecute corruption cases at the National Search and Rescue Agency of the Republic of Indonesia**

The determination of the judicial institution that has the authority to adjudicate corruption cases at the National Search and Rescue Agency of the Republic of Indonesia requires a comprehensive understanding of the concept of absolute jurisdiction in the Indonesian judicial system. Absolute jurisdiction is the fundamental authority that determines which courts have jurisdiction to examine and try a case based on the material characteristics and legal subjects involved.[ Dwi Novantoro, “Kepastian Hukum Peradilan Koneksitas Perkara Tindak Pidana Korupsi,” Jurnal Adijaya Multidisplin 3, no. 02 (2025): 170–84.] This concept is different from relative jurisdiction which only regulates the distribution of jurisdictional areas between similar courts.

In Indonesia's judicial structure, the Supreme Court, as the apex court, oversees four judicial environments, each of which has different absolute competences: the General Court, the Religious Court, the State Administrative Court, and the Military Court. Each judicial environment has authority limits that are strictly set by laws and regulations, thus creating a system of checks and balances in the administration of justice.[ Frengki Raja Simanjuntak, "KAJIAN HUKUM PIDANA TERHADAP KEPALA BASARNAS PELAKU KORUPSI" (PhD Thesis, Universitas Atma Jaya Yogyakarta, 2024), <https://repository.uajy.ac.id/id/eprint/32013/>.] A proper understanding of absolute jurisdiction is essential in determining the appropriate judicial forum for corruption cases involving military personnel.

The complexity of determining absolute jurisdiction is increasingly evident when it comes to cases involving legal subjects with special status, such as military personnel, and types of criminal acts that have special characteristics, such as corruption. In this context, there is a potential conflict between jurisdiction based on the status of legal subjects (personal jurisdiction) and jurisdiction based on the type of criminal act (subject matter jurisdiction). This conflict requires a thorough analysis of the hierarchy of legal norms and applicable legal principles.

Based on Law No. 46/2009 concerning the Corruption Court, the Corruption Crime Court is designated as a special court under the auspices of the general judiciary. The provisions of Article 2 of the Law explicitly state that the Corruption Court is a special court in the general judiciary. This indicates that despite having a special specialization in handling corruption cases, the Corruption Court remains subject to the structure and hierarchy of the general judiciary.

The absolute jurisdiction of the general court is strengthened by the provisions of Law No. 2/1986 on the General Court, as amended by Law No. 49/2009. Section 5 of the Act stipulates that the District Court has the power to examine, adjudicate, decide and settle criminal and civil cases at the first level. In the context of corruption crimes, this authority has been specifically transferred to the Corruption Crimes Court as a court that has experience and expertise in handling extraordinary crimes.

The determination of the Corruption Crimes Court as part of the general judiciary is not without reason. The main consideration is that corruption is a crime that harms the State's finances and the national economy, so it requires professional and transparent management.[ Fitri Wahyuni, Dasar-Dasar Hukum Pidana Di Indonesia (PT Nusantara Persada Utama, 2017).] Public courts are considered to have more open and accountable features compared to domestic justice systems, such as military courts. In addition, the placement of the Corruption Crimes Court in the general judiciary is also in line with the principle of equality before the law, according to which all citizens, including public officials and military personnel, should be treated equally before the law.

The military court has absolute authority, which is specifically regulated by Law No. 31/1997 of the Republic of Indonesia concerning Military Justice. Based on the provisions of Article 69, there are three institutions that have the authority to take legal action against military personnel: first, superiors who have the right to punish; second, military police; and third, military inspectors. This provision reflects a domestic justice system that gives special authority to military institutions to deal with violations of the law committed by its members.

Article 9 of the Military Justice Act comprehensively regulates the scope of military judicial jurisdiction. Military courts have the power to try criminal acts committed by: (a) soldiers; (b) A person who is legally equated with a soldier; (c) Members of a class, office or body equivalent to or considered to be a soldier under the law; and (d) a person who does not fall within categories a, b and c, but by decision of the Commander-in-Chief with the approval of the Minister of Justice, shall be tried by a military court.

A literal interpretation of this provision suggests that military courts have broad jurisdiction over military personnel, including in cases of corruption. From the perspective of absolute jurisdiction based on legal issues, military personnel who commit corruption must be subject to military courts because of their military status. This argument emphasizes the principle that absolute jurisdiction is determined on the basis of "matter of persons" (ratione personae), where the status of the subject of the law becomes the determining factor in determining the jurisdiction of the courts.

However, this interpretation faces challenges when faced with the principle of the court's specialization to deal with certain types of criminal offenses. A military justice system designed to handle violations of military discipline and criminal acts related to military duty may not have sufficient capacity and experience to handle complex corruption cases involving complex financial aspects of the state.

a. Analysis of the Constitutional Court Decision Number 87/PUU-XXI/2023: A New Paradigm of Institutional Coordination

The Constitutional Court's Decision Number 87/PUU-XXI/2023 has provided a significant constitutional interpretation of the KPK's authority in handling corruption cases involving military personnel. The decision corroborated part of the applicant's application by stating that Article 42 of Law No. 30/2002 concerning the KPK is contrary to the 1945 Constitution and does not have conditionally binding legal force.[ "Putusan Mahkamah Konstitusi Nomor 87/PUU-XXI/2023," n.d.]

The conditions set by the Constitutional Court create a new paradigm in handling corruption cases in all jurisdictions. The decision states that the KPK is authorized to coordinate and monitor the investigation, investigation, and prosecution of corruption crimes committed jointly by persons subject to military courts and general courts, provided that the case in question is handled from the beginning or initiated/disclosed by the KPK. This provision introduces the principle of "first handling jurisdiction" as a criterion for determining the competent body.

The legal implication of the Constitutional Court's decision is the creation of a clearer coordination system between the KPK and the TNI in handling corruption cases involving military personnel. If corruption cases are handled or discovered first by the KPK, then the KPK has the legitimacy to continue the law enforcement process through coordination with the military. On the other hand, if the case is handled by the TNI first, then the military court has the authority to adjudicate.

This "management jurisdiction first" approach reflects the Constitutional Court's efforts to create a balance between the authority of the KPK as an anti-corruption institution and the authority of the TNI as an institution that has special jurisdiction over its members. This ruling also shows the recognition of the importance of institutional coordination in handling complex corruption cases and in the participation of various institutions.

b. Application of the principle of "First Handler Jurisdiction" in the case of Basarnas

The implementation of the Constitutional Court's decision in the Basarnas corruption case brings clarity to the authority controversy that previously occurred between the KPK and the TNI. Considering that the Basarnas corruption case was first handled and disclosed by the KPK, based on the Constitutional Court's decision, the KPK has the legitimacy to continue the law enforcement process against all suspects, including the military personnel involved. This means that Vice Marshal Henri Alfiandi as an active member of the TNI can be tried in the Corruption Court through coordination between the KPK and the TNI.

The application of this principle requires an effective coordination mechanism between the KPK and the TNI to ensure that the law enforcement process is carried out in accordance with applicable procedures. The KPK still has the authority to conduct investigations and investigations, but in its implementation it must coordinate with the TNI, especially on aspects

related to the status of suspected soldiers. This coordination is important to ensure that the rights of suspects as military personnel are protected, while maintaining the effectiveness of the corruption eradication process.

In addition, the application of the principle of "operator jurisdiction first" also has implications for the establishment of appropriate judicial forums. Although the KPK has the authority to handle cases from the beginning, the judicial forum follows the applicable provisions, namely the Corruption Court as the only court with the authority to try corruption cases. This is in line with the principle of judicial specialization and monopoly of the jurisdiction of the Corruption Court in handling extraordinary crimes.

Based on a thorough analysis of various laws and regulations and Constitutional Court decisions, it can be concluded that the body authorized to adjudicate corruption cases at the National Search and Rescue Agency of the Republic of Indonesia is the Corruption Crimes Court. This conclusion is based on a number of mutually reinforcing legal considerations.

1. First, from the perspective of absolute jurisdiction based on the type of crime (*ratione materiae*), corruption is an extraordinary crime that requires special treatment by a special court in that field. The Corruption Court has established itself as the only court that has the authority to adjudicate corruption cases under Law No. 46/2009, thus having a monopoly of jurisdiction to handle all corruption cases, regardless of the legal subject status of the perpetrator.
2. Second, the Constitutional Court's decision number 87/PUU-XXI/2023 has given legitimacy to the KPK to handle corruption cases involving military personnel, as long as the case is handled from the beginning by the KPK. In the Basarnas case, the KPK has conducted an investigation and determined the suspect from an early age, so it has the authority to continue the law enforcement process through coordination with the TNI.
3. Third, the principle of connectivity in the Criminal Code supports the handling of cases involving perpetrators from various institutional backgrounds in judicial forums to ensure the efficiency and unity of decisions. This is important considering that the Basarnas case involves military personnel and civilian officials, so that integrated management in the Corruption Court will be more effective.
4. Fourth, from the perspective of protecting the public interest, handling corruption cases in courts that has high transparency and accountability will provide greater public trust in the law enforcement process. Corruption courts under the auspices of the general judiciary have more open features compared to the internal military justice system.

Therefore, it can be concluded that the Corruption Crimes Court is the body authorized to adjudicate corruption cases at the National Search and Rescue Agency of the Republic of Indonesia, while still paying attention to the aspect of institutional coordination between the KPK and the TNI, as stipulated in the Constitutional Court's decision. This approach not only provides legal certainty, but also ensures the effectiveness of the eradication of corruption, while respecting the specificity of the status of suspected soldiers.

## **CONCLUSION**

Based on a comprehensive study of various applicable laws and regulations, it can be determined that the legal provisions of the authority to prosecute corruption cases committed by military personnel have undergone a paradigmatic transformation from the focus of personal jurisdiction to the jurisdiction of the subject matter. Although there is a legal dialectic between Law No. 31/1997 on military courts, which gives exclusive jurisdiction to military courts based on soldier status, the provisions of Law No. 46/2009 on Criminal Courts (MK), Law No. 30/2022 on the KPK, as well as the principle of connectivity in Article 89 of the Criminal Code and Article 65, Paragraph 2 of the TNI Law, predominantly direct the handling of corruption cases involving military personnel to the General Court through the Corruption Court. The

harmonization of these legal norms is strengthened by the legitimacy of the KPK's coordination in handling cases between jurisdictions, noting that its implementation requires an effective coordination mechanism between the KPK and the TNI to ensure legal certainty and procedural justice.

The Constitutional Court Decision Number 87/PUU-XXI/2023 has provided definite clarity on the issue of absolute jurisdiction in the Basarnas corruption case by introducing the principle of "first handler jurisdiction" as a determinant of institutional authority. On the basis of the decision and taking into account that the Basarnas corruption case was first handled and disclosed by the KPK, the Corruption Council is the body authorized to adjudicate the case, including against Vice Marshal Henri Alfiandi as an active member of the TNI. This conclusion is strengthened by the monopoly of the jurisdiction of the Criminal Court as the only court authorized to adjudicate corruption cases based on Law No. 46/2009, the principle of connectivity to ensure judicial efficiency and considerations of transparency and public accountability in handling extraordinary crimes. Therefore, this approach not only provides legal certainty, but also ensures the effectiveness of the eradication of corruption while respecting the specificity of the status of soldiers through harmonious institutional coordination mechanisms.

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